Santa Barbara County Planning and Development Department

Appeal Application

County Use Only	Appeal Case No.:

STEP 1: SUBJECT PROPERTY

009-371-007, 009-333-013, and 009-010-004,
ASSESSOR'S PARCEL NUMBER(S)

1759 S Jameson Lane, Montecito, CA 93108
PROPERTY ADDRESS (IF APPLICABLE)

Miramar Acquisition Co., LLC
BUSINESS/ESTABLISHMENT NAME (IF APPLICABLE)

STEP 2: PROJECT DETAILS

Housing – Mixed Use Development
PROJECT TITLE

24RVP-00050, 24RVP-00051, 24AMD-00008, 24CDP-00077
CASE NO(S).

County Planning Commis‹ November 1, 2024
DECISION MAKER DATE OF ACTION

Is the appeal related to cannabis activities? ☐ Yes ■ No

STEP 3: APPEAL CONTACTS

APPELLANT

Danielle Wilson (on behalf of UNITE HERE Local 11)
NAME (if LLC or other legal entity, must provide documentation)

464 S. Lucas Ave., Los Angeles, CA 90017
STREET ADDRESS

Los Angeles, CA 90017
CITY, STATE ZIP

818-534-7999 danielle.wilson@unitehere11.org
PHONE EMAIL

AGENT

NAME (if LLC or other legal entity, must provide documentation)

STREET ADDRESS

CITY, STATE ZIP

PHONE EMAIL

ATTORNEY

Jordan R. Sisson, Esq.
NAME (if LLC or other legal entity, must provide documentation)

3993 Orange St., Ste. 201
STREET ADDRESS

Riverside, CA 92501
CITY, STATE ZIP

951-542-2735 jordan@jrsissonlaw.com
PHONE EMAIL

STEP 4: APPEAL DETAILS

Is the Appellant the project Applicant? ☐ Yes ■ No

If not, please provide an explanation of how you are an "aggrieved party", as defined in Step 5 on page 2 of this application form:

Through counsel, Local 11 objected against the Project, including: (i) written and verbal comments provided during the County Planning Commission hearing held 10/9/24; (ii) verbal comments comments provided during the Montecito Planning Commission hearing 10/18/24; and (iii) verbal comments during the County Planning Commission hearing held 11/1/24.

Please provide a clear, complete, and concise statement of the reasons or ground for appeal:

- *Why the decision or determination is consistent/inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law;*
- *There was error or abuse of discretion;*
- *The decision is not supported by the evidence presented for consideration;*
- *There was a lack of a fair and impartial hearing; or*
- *There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.*
- *Coastal Zone – Accessory Dwelling Unit appeals: Appellant must demonstrate that the project is inconsistent with the applicable provisions and policies of the certified Local Coastal Program or that the development does not conform to the public access policies set forth in the Coastal Act.*

Please see attached Appeal Justification dated 11/12/24.

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STEP 5: APPELLANT, AGENT, AND ATTORNEY ACKNOWLEDGEMENTS

I hereby certify under penalty of perjury that I have read the information below and that:

1. I have carefully reviewed and prepared the appeal application in accordance with the instructions; and
2. I provided information in this appeal application, including all attachments, which are accurate and correct; and
3. I understand that the submittal of inaccurate or incomplete information or plans, or failure to comply with the instructions may result in processing delays and/or denial of my application; and
4. I understand that it is the responsibility of the applicant/appellant to substantiate the request through the requirements of the appeal application; and
5. I understand that upon further evaluation, additional information/documents/reports/entitlements may be required; and
6. I understand that all materials submitted in connection with this appeal application shall become public record subject to inspection by the public. I acknowledge and understand that the public may inspect these materials and that some or all of the materials may be posted on the Department's website; and
7. I understand that denials will result in no refunds; and
8. I understand that Department staff is not permitted to assist the applicant, appellant, or proponents and opponents of a project in preparing arguments for or against the project; and
9. I understand that there is no guarantee – expressed or implied – that an approval will be granted. I understand that such application must be carefully evaluated and after the evaluation has been conducted, that staff's recommendation or decision may change during the course of the review based on the information presented; and
10. I understand an aggrieved party is defined as any person who in person, or through a representative, appears at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either; and
11. Pursuant to California Civil Code Section 1633.5(b), the parties hereby agree that where this Agreement requires a party signature, an electronic signature, as that term is defined at California Civil Code Section 1633.2(h), shall have the full force and effect of an original ("wet") signature. A responsible officer of each party has read and understands the contents of this Agreement and is empowered and duly authorized on behalf of that party to execute it; and
12. I understand that applicants, appellants, contractors, agents or any financially interested participant who actively oppose this project who have made campaign contributions totaling more than $250 to a member of the Planning Commission or Board of Supervisors since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount and date of the campaign contribution and identify the recipient Board member and may be made either in writing as part of this appeal, in writing to the Clerk of the legislative body before the hearing, or by verbal disclosure at the time of the hearing; and
13. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the applicant shall identify:
    - How the Land Use Permit is inconsistent with the previously approved discretionary permit;
    - How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed;
    - How the approval is inconsistent with Section 35.106 (Noticing).

REQUIRED SIGNATURES: All aggrieved parties must sign the appeal application prior to the appeal deadline in order to be considered an aggrieved party. Please attach additional signature pages, as needed.

I have read and understand the above acknowledgements and consent to the submittal of this application.

SIGNATURE – APPELLENT	PRINT NAME	DATE
	Danielle Wilson	11/12/2024
SIGNATURE – AGENT	PRINT NAME	DATE
SIGNATURE – ATTORNEY	PRINT NAME	DATE
	Jordan R. Sisson	November 12, 2024

Appeals to the Planning Commission. Appeals to the Planning Commission must be filed with Planning and Development no later than 10 days following the date of the decision, along with the appropriate fees. Please contact P&D staff below for submittal instructions and to determine the appropriate fee.

South County projects: front@countyofsb.org or (805) 568-2090
North County projects: nczoning@countyofsb.org or (805) 934-6251

Appeals to the Board of Supervisors. Appeals to the Board of Supervisors must be filed with the Clerk of the Board and must be filed no later than 10 days following the date of the decision, along with the appropriate fees. Appeal instructions are located online at the Clerk of the Board website: https://www.countyofsb.org/2837/Filing-Land-Use-Appeals-Claims

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November 12, 2024

VIA HAND-DELIVERY & EMAIL:

County of Santa Barbara Clerk of the Board
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101
sbcob@countyofsb.org

RE: APPEAL JUSTIFICATION OF MIRAMAR RESORT DEVELOPMENT REVISION (1759 S. JAMESON LN.); CASE NOS. 24RVP-00050, 24RVP-00051, 24AMD-00008, & 24CDP-00077; COUNTY PLANNING COMMISSION APPROVAL OF NOVEMBER 1, 2024

Dear Honorable Board of Supervisors:

On behalf of UNITE HERE Local 11 ("**Local 11**" or "**Appellant**"), this office respectfully submits this "**Appeal**" to the County of Santa Barbara ("**County**") Board of Supervisors ("**Board**") regarding the proposed 34 residential units (8 market rate units and 26 affordable employee units) and 17,500 square feet ("**sf**") of commercial space (15,000 sf of resort shops and a 2,500-sf café) ("**Proposed Project**") located on the existing northwest and northeast parking lots within the roughly 16-acre Miramar Beach Resort ("**Resort**") (APNs 009-371-007, 009-333-013, 009-010-004), proposed by the Project applicant Caruso Affiliate and Miramar Acquisition Co, LLC (collectively "**Applicant**"). (See Figure 1 following page.)

As discussed in Local 11's prior comments[1] dated October 11, 2024 (*attached hereto as Exhibit A*), the Resort has a long entitlement history dating back to 2000 when it was initially proposed as merely 213 renovated guest rooms (eight replacement), four employee units, and only an 896-sf tennis sundry shop next to tennis courts ("**2000 Original Project**"). (See Exh. A, pp. 4-7.) The Board's most recent Resort approval was in 2015 when it authorized the new construction of 170 rooms with 1,060 sf of salon/sundry space, a private theater intended for hotel guests only, and other uses assuming only 102 employees onsite at any given time, and that retail would not draw new trips to the Resort ("**2015 Approved Project**").[2] Since then, the Resort was modified through multiple substantial conformance determinations ("**SCD**(s)") that reduced hotel rooms down to 154, removed theater and fitness space, and added a 50-seat sushi restaurant and 8,481-sf of roughly nine luxury retail establishments ("**2023 Modified Project**").[3]

The Proposed Project seeks various local approvals under the Santa Barbara County Code ("**SBCC**" or "**Code**"), including multiple revisions and amendments to previously issued

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[1] Herein, page citations are either the stated pagination (i.e., "**p. #**") or PDF-page location (i.e., "**PDF p. #**").
[2] See e.g., Board File No. 15-00258, https://santabarbara.legistar.com/LegislationDetail.aspx?ID=2242749&GUID=F4B4C052-F59D-49B3-9A31-545710EA2252; 2015 SEIR/MND Addendum, PDF p. 2; MPC Staff Report (12/15/14) PDF pp. 11, 14, 21, 33, https://santabarbara.legistar.com/View.ashx?M=F&ID=3662572&GUID=4D495433-794F-498C-B4A0-78DF110E46F2; 2015 Conditions of Approval, PDF pp. 3-4, 14-15, 25-26.
[3] See e.g., CPC Staff Report (10/9/24), pp. 8-9; 2021 Traffic Memo, pp. 1-2; 2023 ACE Traffic Memo, pp. 1-2.

Development Plan and Conditional Use Permits ("**CUP**(s)") (collectively "**Entitlements**").[4] The Project also requires a Coastal Development Permit ("**CDP**") per the California Coastal Act (Pub. Res. Code § 30000 et seq.) ("**Coastal Act**"). (Id., at p. 10.) Additionally, for the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) ("**CEQA**"),[5] the County is considering whether the Project qualifies for a statutory exemption authorized under Assembly Bill 1804 (Stats 2018, ch 670) ("**AB 1804**") for residential/mixed-use development for infill/urbanized county areas (Pub. Res. Code § 21159.25) ("**Exemption**"). Furthermore, the Project is being processed under the Housing Accountability Act (Gov. Code § 65589.5) ("**HAA**") and seeks waivers from five Code requirements (collectively "**Waivers**") based on State Density Bonus Law (§§ 65915-65918) ("**SDBL**").

Figure 1: Proposed Project & Resort

Northwest Lot: Includes two, two-story (33'-5" max) buildings referred as Building A and B, which together contain: (i) eight (8) market-rate housing rental units; (ii) 12 resort shops totaling 15,000 sf; (iii) a 2,500-sf café; and (iv) 79 subterranean parking spaces.	**Northeast Lot**: Includes one, three-story (40'-9" max) building referred as Building C, which includes 26 affordable employee apartments (19 studios, one 1-bed, and six 2-bed) totaling 19,102 sf. The lot will also include 350 reconfigured parking spaces utilizing an elevated parking deck with an approximate 11,682-sf footprint (118' by 99') and will be about 17 feet tall.

[4] See CPC Staff Report (10/9/24), pp. 1-6, 10, 13-14.
[5] Including "**CEQA Guidelines**" codified at 14 Cal. Code. Regs. § 15000 et seq.

The Project received public hearings before the County Planning Commission ("**CPC**") and Montecito Planning Commission ("**MPC**") on October 9 and 18, 2024 (respectively).[6] On November 1, after conducting another public hearing and the Applicant making slight modifications to Building B's second-story massing on the northwest lot, CPC approved the Project, including the findings and conditions of approval ("**COA**") for the Entitlements, CDP, Exemption, and Waivers (collectively "**Project Approvals**"), as evidenced by the Planning Department letter dated November 5, 2024 (*referenced herein as Exhibit B*).[7] Local 11 submits this timely Appeal of the Project Approval.[8]

Based on the review of the administrative record and other relevant documents related to the Proposed Project and Resort, the Planning Commission's granting of the Project Approvals seems to be inconsistent with CEQA, Coastal Act, the County's Local Coastal Plan ("**LCP**") provisions, and the Coastal Zoning Ordinances (Article II), particularly as it relates to direct and indirect impacts on traffic (i.e., level of service ("**LOS**"), vehicle-miles traveled ("**VMT**")), parking demand, coastal resources and public access, greenhouse gas ("**GHG**") emissions, public safety impacts, land use compatibility, and other CEQA concerns. Local 11 strongly supports housing but is concerned with the Applicant's narrow and self-serving review of the Proposed Project, which ignores substantial evidence of existing impacts that will be exacerbated by the Proposed Project and relies on an inadequate CEQA-review that misapplies the AB 1804 CEQA Exemption. In doing so, the Applicant and CPC failed to consider feasible mitigation measures and alternatives that would minimize impacts without affecting the Proposed Project's housing density or the five HAA Waivers requested by the Applicant. Therefore, *Local 11 respectfully requests the County Board grant this Appeal and modify the Project Approvals by granting the Waivers and residential densities but requiring implementation of the following three requirements*:

1. Updated traffic, VMT, parking, and GHG studies that assess cumulative impacts at the Resort based on Resort-specific data (subject to public comment).
2. Consideration of enhanced/modified mitigation tied to said new studies, such as additional TDM strategies, enhanced Parking Management Plan components, additional parking solutions, and other measures that reduce VMTs/GHGs.
3. Modification of the Proposed Project that consolidates all residential uses to the northwest lot, commercial/retail uses to the northeast lot, and uses a less traffic-inducing use than the currently proposed retail use (that will likely function as luxury retail shopping center).

The specific points at issue were fully outlined in Local 11's prior comments (attached hereto as Exhibit A) and the comments submitted by others during the Project's approval process (*referenced herein as Exhibits C through T*), which have already been submitted to the County and are available on the County's public hearing folders.[6] For your convenience, these exhibits have been hyperlinked herein this Appeal, which corresponds to the public hearing date and public comment title used in the County's Miramar Project folders. These exhibits and other referenced documents are incorporated into this Appeal in their entirety. For the sake of brevity, the below sections summarize the specific grounds of this Appeal in accordance with other zoning appeal requirements under SBMC § 35.102.020.

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[6] See e.g., CPC Miramar Folder (10/9/24); MPC Miramar Folder (10/18/24); CPC Miramar Folder (11/1/24).
[7] See Exh. B (11/5 Planning Letter).
[8] See SBCC § 35.102.02 subds. B.1.A & B.2 [appeal deadline ten calendar days commencing day after decision made, and where extends to next business day when final tenth day falls on non-business day).

I. APPELLANT AND THEIR INTEREST (SUBDS., A & C.1.A)

Local 11 has an interest and standing involving the Project Approvals. Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona. The union has a First Amendment right to petition public officials in connection with matters of public concern, including compliance with applicable zoning rules and CEQA, just as developers, other community organizations, and individual residents do. Protecting its members' interest in the environment, including advocating for the environmental sustainability of development projects and protecting access to coastal resources (in compliance with state and local rules), is part of Local 11's core function. Recognizing unions' interest and union members' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing to challenge the Project Approvals given the County's public duty to comply with applicable zoning and CEQA laws, which Local 11 seeks to enforce. (See *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916 [fn. 6]. See also *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169–170.)

Through counsel, Local 11 raised its objections throughout the Project approval process, including: (i) written and verbal comments provided during the CPC hearing held on October 9, 2024 (see attached Exh. A); (ii) verbal comments during the MPC hearing on October 18, 2024; and (iii) verbal comments during the CPC hearing held on November 1, 2024. As discussed further below, its concerns were echoed and/or elaborated further by other commenters. Despite these efforts, the CPC approved the Project Approvals on November 1, 2024. Accordingly, for the purpose of this Appeal, Local 11 is an "aggrieved person" allowed to appeal the CPC action to grant the Project Approvals. (See SBCC § 35.102.020.A.[9])

II. DECISION OR DETERMINATION BEING APPEALED (SUBD., C.1.B)

This Appeal challenges the CPC's approval of the Project on November 1, 2024, as explained above. This Appeal also challenges the findings and Project Approvals, which are further detailed in the November 5th Planning letter.[7]

III. STATEMENT OF PROJECT'S INCONSISTENCY WITH APPLICABLE LAW & OTHER SPECIFICALLY STATED GROUNDS (SUBD. C.1.C & C.1.D)

Appellant Local 11 offers the following concise summary of the grounds for this Appeal:

- The Project Approvals are inconsistent with the provisions and purposes of CEQA, the Coastal Act, and the County's Zoning Ordinances;
- CPC's grant of the Project Approvals was an error and abuse of discretion; and
- CPC's decision was not supported by sufficient substantial evidence.

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[9] Under the Code, "person" is defined as including any association, organization, entity, and other forms. (See e.g., SBCC §§ 1-2 [definitions] 35.110.020.P [definitions], 35.500.020.P [definitions].)

"Substantial evidence" includes facts, reasonable assumptions predicated upon fact, or expert opinion supported by fact; it does not include argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous evidence, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); CEQA Guidelines §§ 15064(f)(5), 15384.) However, that standard does not mean one must "'uncritically rely on every study or analysis presented by a project proponent in support of its position ... [,] [a] clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1355 [quoting *Laurel Heights Improvement Assn. v. Regents* (1988) 47 Cal.3d 376, 409 n. 12].) As such, courts will not blindly trust bare conclusions, bald assertions, and conclusory comments without the "disclosure of the 'analytic route the . . . agency traveled from evidence to action.'" (*Laurel Heights,* 47 Cal.3d at 404-405 [quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515]; see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568-569; *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 441 [agency "obliged to disclose what it reasonably can ... [or] substantial evidence showing it could not do so."].)

The below sections briefly outline specific grounds for the Appeal, which reference and incorporate the arguments raised by Local 11 and others during the Project Approval process, as well as brief rebuttal key responses contained in the Applicant's counsel letter dated October 30, 2024 ("**Applicant Response**").[10]

A. POTENTIAL DIRECT AND INDIRECT TRAFFIC, VMT & PARKING IMPACTS

Here, substantial evidence indicates that the existing Resort generates excess traffic and parking demand, including but not limited to:

1. Relevant, fact-specific concerns raised by local residents and community members—substantiated by photos, affidavits, drone imagery, video evidence, personal observations, and other relevant evidence—demonstrate that the existing site is under-parked causing parking spillover into the adjacent streets resulting in the loss of public parking spots, the Resort's conversion of some parking spaces that further reduced parking spaces onsite (e.g., Tesla charging station), and the need to utilize off-site employee parking at the adjacent church parking lot and other location known as the "**QAD.**"[11, 12]

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[10] See Exh. T (10/30 Applicant Submittal).

[11] See e.g., Exh. E (10/9 Public Comment Letter #6 (Dracht)), PDF pp. 1-160; Exh. F (10/9 Public Comment Letter #6), PDF pp. 2-6; Exh. G (10/9 Public Comment Letter #7), PDF pp. 2, 8-10, 14-31; Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 19-20, 70-86; Exh. J (10/18 Public Comment Letter #2), PDF p. 3-4; Exh. K (10/18 Public Comment Letter #3, PDF pp. 3-4, 27-60; Exh. L (10/18 Public Comment Letter #4), PDF pp. 1-50; Exh. N (11/1 Public Comment Letter #5), PDF pp. 1-15; Exh. O (11/1 Public Comment Letter #7), PDF pp. 40-41 (providing video links https://vimeo.com/1024814992 & https://vimeo.com/1024826892), 64-75; Exh. P (11/1 Public Comment Letter #8), PDF pp. 1, 6-16.

[12] See e.g., Exh. C (10/9 Public Comment # 3), PDF pp. 1, 2; Exh. D (10/9 Public Comment Letter #4), PDF pp. 2, 6, 8; Exh. I (10/18 Public Comment Letter), PDF p. 1; Exh. O (11/1 Public Comment Letter #7), PDF pp. 32.

2. Public safety concerns regarding emergency vehicle access within proposed parking lots (i.e., proposed underground, surface, platform facilities); potential increased queuing and delayed evacuations related to the parking's proposed valet service, stacker facilities, and double/triple stacked parking configuration; and potential queuing into adjacent local roads that may adversely impact pedestrian, bike, and vehicle circulation on existing small roads already congested by Resort-related parking/traffic demands.[13]
3. The Resort's existing Parking Plan and TDM program are ineffective and have not been adequately enforced in a timely manner.[14]
4. Existing spillover effects adversely impact public parking spaces (i.e., 87 public parking spaces) that provide public access to the beach and other coastal resources.[15]
5. Reasonable assumptions predicated upon site/applicant-specific facts and other evidence demonstrating the existing and proposed retail will function as a luxury boutique shopping center generating significantly more traffic (and associated emissions) and parking demand than what was assumed.[16]
6. Residents highlight that after the CPC hearing held on October 9, the Resort stationed approximately six new parking monitors that, while effective at reducing spillover impacts, are generally not present at the site to enforce parking management solutions.[17]
7. The Resort's recent October parking survey failed to consider seasonal variability (particularly during peak summer season), consider peak periods when big events coincide with other significant operations demanding significant parking, or specify periods when off-site employee parking locations are utilized or how the survey may be likely skewed by the ad hoc parking monitors recently implemented.[18]
8. The Project fails to include a VMT impact analysis due to the improper assumption that retail is merely local/hotel-serving and refusal to consider the potential cumulative impacts from successive developments at the Resort (e.g., 2015 Approved Project, various SCDs as part of the 2023 Modified Project, and current Proposed Project).[19]
9. The Project environmental review fails to consider actual parking demand, trip counts, employee time records over relevant periods, and other site-specific data to base traffic/parking impact analysis instead of utilizing a hypothetical model that has proven inaccurate over time.[20]

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[13] See e.g., Exh. D (10/9 Public Comment Letter #4), PDF pp. 7; Exh. K (10/18 Public Comment Letter #3, PDF pp. 1, 3-4, 18-19; Exh. M (10/18 Public Comment Letter #5), PDF pp. 5; Exh. O (11/1 Public Comment Letter #7), PDF pp. 38-41, 57-63.
[14] See e.g., Exh. A, p. 7-8, 11; Exh. E (10/9 Public Comment Letter #6 (Dracht)), PDF pp. 3-4, 6, , 8-11;
[15] See e.g., Exh. A, p. 10; Exh. E (10/9 Public Comment Letter #6 (Dracht)), PDF pp. 1-3, 8-11; Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 13, 19-20, 70-86; Exh. K (10/18 Public Comment Letter #3, PDF pp. 19-20; Exh. M (10/18 Public Comment Letter #5), PDF pp. 6.
[16] See e.g., Exh. A, pp. 9-10; Exh. D (10/9 Public Comment Letter #4), PDF pp. 1-2; Exh. K (10/18 Public Comment Letter #3, PDF pp. 8-12, 15-16; Exh. O (11/1 Public Comment Letter #7), PDF pp.57
[17] See e.g., Exh. J (10/18 Public Comment Letter #2), PDF p. 1-2; Exh. K (10/18 Public Comment Letter #3, PDF pp. 29; Exh. Q (11/1 Public Comment Letter), PDF pp. 1-2.
[18] See e.g., Exh. A, pp. 10-11; Exh. K (10/18 Public Comment Letter #3, PDF pp. 17-20.
[19] See Exh. A, p. 11.
[20] See Exh. O (11/1 Public Comment Letter #7), PDF p. 57.

The Applicant Response letter does not adequately address these concerns for at least six reasons. First, the Applicant Response claims the Resort already implements a *robust parking plan* that ensures the Resort's employees, guests, vendors, and others "park onsite," which was recently confirmed by County staff. (Applicant Response, PDF pp. 1, 9, 11-12, 18.) However, the proposed Parking Plan (id., at PDF pp. 36-37) is largely similar to what was previously required as part of the 2015 Project Approval,[21] which has proven to be ineffective, as demonstrated by substantial evidence submitted by the residents demonstrating spillover parking impacts, and the Resort only recently implemented parking monitors in the middle of the Proposed Project approval hearings. Residents' personal observations of traffic conditions where they live and commute are substantial evidence, especially when *citing specific facts* based upon *personal knowledge* that call into question the underlying assumptions of a professional traffic study.[22] Furthermore, the past and current Parking Plan contain many vague goals (e.g., emphasize adherence to existing regulations, minimize impacts to neighbors, etc.) that lack objective performance standards.[23]

Second, the Applicant Response claims that the TDM program has already been implemented, does not require a minimum participation percentage, and is nevertheless irrelevant for CEQA since it relates to LOS. (PDF pp. 21, 24.) However, TDM measures are also relevant to the reduction of mobile emissions and related air/GHG emissions, parking demand, and access to public parking spaces for coastal resources (to name a few). Moreover, if TDM and the Parking Plan are clearly inadequate under existing conditions (as demonstrated by numerous commenters), it is proper for the County to consider enhanced TDMs and Parking Plan measures before authorizing further Resort modifications that will exacerbate existing conditions and make cumulative parking impacts worse. CPC should have considered additional measures, such as feasible TDM measures and VMT/GHG-reducing strategies proposed by the California Air Resources Board ("**CARB**"), Office of Planning and Research ("**OPR**"), and the California Air Pollution Control Officers Association ("**CAPCOA**"), among other relevant agencies.[24]

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[21] See Exh. E (10/9 Public Comment Letter #6 (Dracht)), PDF pp. 90-91.

[22] See e.g., *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 173; *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 735; *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 274 [citing relevant caselaw].

[23] Supra fn. 21.

[24] See e.g., SCAG (Dec. 2019) Final Program EIR, pp. 2.0-18 – 2.0-71 (see "project-level mitigation measures" for air quality, GHG, and transportation impacts), https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_complete.pdf?1607981618; CARB 2022 Scoping Plan, 4, 7, 24, 29 & Appendix D, p. 23, https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents; CARB's 2017 Scoping Plan, Appendix B-Local Action, pp. 1-8, 7-9 & Appendix D, p. 2, https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf; OPR (Dec. 2018) Technical Advisory, p. 27, https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf; CAPCOA (Dec. 2021) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, pp. 31-32, 73, 76, 80-96, https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf; CAPCOA (Aug. 2010) Quantifying GHGs and Mitigation, pp. 64-74, https://www.contracosta.ca.gov/DocumentCenter/View/34123/CAPCOA-2010-GHG-Quantification-PDF.

Third, the Applicant Response claims that a traffic expert (i.e., ATE) prepared a *shared parking analysis* using widely utilized methodologies based on empirical data, reviewed/approved by County staff, which shows that the Proposed Project and Resort would exceed peak parking demand by 18 spots. (Applicant Response, PDF pp. 1, 9, 11-12, 18, 20, 28-29.) However, substantial evidence submitted by community members belies this conclusion, where spillover impacts are evident. Additionally, this updated shared parking analysis was conducted by the same expert and methodology as prior shared parking studies, which have proven inaccurate.[25] Inaccurate evidence is not substantial evidence, and the Planning Commission and County Board are not obligated to rely on every study submitted by the Applicant uncritically. (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1355 [quoting *Laurel Heights, supra,* 47 Cal.3d at 409 n. 12].) Furthermore, to the extent the ULI share parking models are justified when contemplating a future use not yet established, the Resort has been built and operational for years—making actual parking/transportation trips feasible to analyze. The Applicant is obliged to disclose what it reasonably can or substantial evidence showing it could not do so. (*Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 441.)

Fourth, Applicant Response claims the Project is providing adequate parking and not impacting public beach access based on the recent October *parking survey* conducted during the weekend event, which showed usage of 43-75 % of onsite parking spots and 44-88 % usage of the 87 public parking spaces around the Resort. (Applicant Response, PDF pp. 2, 9, 11-14, 18, 20, 25-26, 28-29.) However, that parking survey (id., at PDF pp. 39-45) was only recently conducted when the Resort was employing six new parking monitors, which is not the usual circumstance experienced by community members. The Proposed Parking Plan does not mandate six parking monitors. Additionally, the parking survey does not discuss the use of off-site parking locations for employees (e.g., QAD) or provide any details on how often they are used and what future conditions would require the Resort's use of off-site employee parking locations. Furthermore, the parking survey does not account for larger events (i.e., greater than 250 persons) or account for peak periods during summer or when other Resort uses are experiencing peak demand (e.g., restaurant service). Collectively, these issues suggest that the parking demand survey is (at best) incomplete and does not address normal existing conditions. The recent parking survey does not eviscerate the years of experience of community members.

Fifth, the Applicant Response claims that the *retail trip generation and assumptions* (e.g., trip rates, pass-by trips, etc.) are conservative based on ATE's analysis of appropriate trip rates and other assumptions, which were verified by customer data that is confidential and proprietary. (Applicant Response, PDF pp. 2, 23-25, 30.) However, this is an unsubstantiated narrative and a bald conclusion, which is not substantial evidence. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); CEQA Guidelines §§ 15064(f)(5), 15384.) There is no explanation of why redacted copies cannot be provided to protect against disclosure of confidential/proprietary information, which Applicant can reasonably do. (See *Cleveland National Forest Foundation, supra,* 17 Cal.App.5th at 441 [agency "obliged to disclose what it reasonably can ... [or] substantial evidence showing it could not do so."].)

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[25] Supra fn. 11, 12.

Sixth, substantial evidence supports the reasonable assumption (predicated on relevant Resort-specific facts) that the retail will function as a luxury boutique retail center with significantly greater trip rates and parking demand anticipated. Here, the Applicant is a well-known developer of luxury shopping centers, the Resort has already added nine luxury retail establishments, and the Proposed Project would add 12 more establishments with an additional cafe. Based on these and other observations raised by the community, it is reasonable to assume that the proposed retail use will generate traffic/parking demand much greater than ITE rates for an apparel store (which was further reduced by the ATE). Furthermore, the Applicant refuses to provide actual trip counts, parking demand, inventory of actual onsite employees, a complete description of off-site parking facilities in use, or redacted copies of data purporting to justify assumed trip rate estimates.

In sum, the issues mentioned above indicate the Project and Project Approvals are inconsistent with various Montecito Community Plan policies (e.g., PRT M-1.6) and Code sections (e.g., SBCC §§ 35-103, 35-105, 35-106).[26] Additionally, direct/indirect impacts on traffic and parking—particularly cumulative impacts that exacerbate existing conditions—negate the use of an AB 1804 CEQA Exemption. (See Pub. Res. Code § 21159.25(b)(5).)

B. POTENTIAL DIRECT AND INDIRECT IMPACTS ON COASTAL RESOURCE AND PUBLIC ACCESS

Here, substantial evidence indicates the Proposed Project may adversely impact coastal resources, including but not limited to:

1. The loss of public parking to beach access and other coastal resources due to the Resort being under-parked.[27]
2. According to community members, the public easement from the beach through the Resort has been frustrated/denied by staff claiming maintenance operations when no maintenance activities were seemingly present.[28]
3. The public easement between the Resort and the northeast lot could be adversely impacted due to the intensification of traffic and parking.[29]
4. The addition of more luxury shopping at this high-cost Resort may require additional consideration of public recreational opportunities that are to be encouraged under Pub. Res. Code § 30213.[30]

The Applicant Response claims there would be no impact on public parking because existing and proposed parking is adequate based on the shared parking study and parking survey. (Applicant Response, PDF p. 18.) For all the reasons discussed above, those studies are inaccurate, incomplete, and not substantial evidence. Applicant Response also claims there are no changes to the proposed number of hotel rooms and, thus, no nexus to require additional mitigation under Pub. Res. Code Section 30213. (Id., at PDF p. 27.) However, adding more luxury retail services will likely induce more visitors to utilize the beach and other coastal-dependent resources, making

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[26] See e.g., Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 10-13,16; Exh. K (10/18 Public Comment Letter #3, PDF pp. 6-12; Exh. O (11/1 Public Comment Letter #7), PDF pp. 52, 57.
[27] See e.g., supra fn. 11, 15; Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 15;
[28] Exh. R (10/9 Public Comment Letter # 8), PDF p. 1.
[29] Exh. S (10/9 Public Comment Letter # 10), PDF pp. 5.
[30] See e.g., Exh. A, p. 12.

them less available to the public. This is compounded by the potential impacts on public access (e.g., loss of parking, frustrated easements).

In sum, the issues mentioned above indicate the Project and Project Approvals are inconsistent with various Montecito Community Plan policies (e.g., PRT M-1.6), Coastal Act (e.g., Pub. Res. Code §§ 30211, 30213, 30253, 30252), and LCP policies (e.g., 2.4, 3.8).[31] The County Planning Commission failed to consider additional enhancements and mitigation measures addressing these issues.

C. POTENTIAL DIRECT AND INDIRECT GHG IMPACTS

Here, substantial evidence indicates the Proposed Project may have a significant GHG impact (i.e., exceeding the County's 3.8 MTCO2e/yr per service population threshold), which is masked due to flawed assumptions about the Proposed Project's service population (i.e., residents + employees).[32] The Applicant Response claims it is improper to conflate employee peak parking demand with the employee GHG study that looks at the total number of employees across all shifts. (Applicant Response, PDF p. 26.) However, the Applicant does not provide any factual basis to support its estimated employee service population of 11 full-time café employees and 50 employees for resort shops. There is no evidence showing that these 61 employees are full-time or part-time or that their time is exclusively associated with just the café/resort uses. Given that the Applicant assumes the proposed retail would be similar to existing retail uses, the Applicant could provide employee counts and time over a sufficient period to substantiate claims but fails to explain why such data cannot be provided. *(Cleveland National Forest Foundation, supra,* 17 Cal.App.5th at 441 [agency "obliged to disclose what it reasonably can ... [or] substantial evidence showing it could not do so."].) Furthermore, to the extent it relies on unsubstantiated traffic assumptions, the GHG study fails to accurately assess GHG impacts from mobile emissions. Nor does the study consider the adequacy of existing mitigation measures (i.e., TDM program) in the context of the cumulative impacts (i.e., successive changes to the Resort), which will be further exacerbated by the Proposed Project.

In sum, the issues mentioned above indicate that the Proposed Project will have a direct GHG impact (i.e., fails performance standard) and indirect GHG impacts (i.e., cumulative impacts associated with mobile emissions), which negates the use of an AB 1804 CEQA Exemption. (See Pub. Res. Code § 21159.25(b)(5).) The County Planning Commission failed to consider additional mitigation measures that could further reduce the Resort's GHG impacts, such as TDM strategies measures proposed by CARB, OPR, and CAPCOA that have the co-benefit of improving traffic, parking, and reducing air/GHG emissions.

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[31] See e.g., Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 10-13,16; Exh. K (10/18 Public Comment Letter #3, PDF pp. 6-12; Exh. O (11/1 Public Comment Letter #7), PDF pp. 52, 57.
[32] See e.g., Exh. A, p. 13.

D. POTENTIAL DIRECT AND INDIRECT ON PUBLIC SAFETY (E.G., FLOODING, EVACUATION) AND LAND USE COMPATIBILITY

Here, substantial evidence indicates concerns regarding the placement of affordable residential housing in a FEMA flood zone (i.e., northeast lot) and the need for an evacuation plan for this area (e.g., 2018 debris flow tragedy, sea-level rise risk, wildfire, etc.).[33] So too, numerous community members raised concerns about the incompatibility of the luxury retail center adjacent to the residential near the already-impacted Eucalyptus Lane/Jameson area (i.e., near the northwest lot). Many requested relocation of the proposed affordable housing to the northwest lot and relocating the commercial component to the northeast lot. Furthermore, many comments objected to the building height and proposed retail density as being inconsistent with applicable height requirements and the area's semi-rural/cottage aesthetic.[34]

In sum, the issues mentioned above indicate inconsistency with various Montecito Community Plan policies (e.g., LU-M-2.1, LUG-M-1.1, LUC-M-1.6, VIS-M-1.4,); Safety Element actions (e.g., 7.3.2, 7.3.3, 8.1.1); Coastal Act (e.g., Pub. Res. Code 30253(a)); and Code sections (e.g., SBCC §§ 35-81.4.2, 35-208.1 & .2, 35-81.1, 35-81.4).[35] The County Planning Commission failed to consider modifications to the Proposed Project's retail components that would not reduce residential densities.

E. OTHER CEQA ISSUES

Here, substantial evidence indicates the Proposed Project does not qualify for an AB 1804 CEQA exemption for a variety of reasons, including but not limited to the following issues:

1. Improper Project Piecemealing

Here, substantial evidence indicates the Applicant has piecemealed its retail expansion,[36] which is not allowed when utilizing an AB 1804 CEQA exemption. (Pub. Res. Code § 21159.27.) The Resort's retail component exploded from a single, 1,060-sf salon and attached sundry located within the Resort's main building (i.e., 2015 Approved Project) into about nine luxury retail establishments totaling 8,481sf in multiple structures (i.e., 2023 Modified Project), which will be expanded even further by adding another twelve establishments (i.e., 15,000 sf) plus a 2,500-sf café (i.e., Proposed Project). The increase in the square footage and number of establishments is relevant. While reasonable to assume a single 1,060-sf sundry/salon would primarily serve guests/public "already" onsite and not "draw special trips" to the Resort,[37] 20+ luxury retailers (roughly 21,000 sf total) and café (2,500 sf) is similar to a boutique shopping center that will likely draw special trips to the Resort. As such, this retail expansion is not "light commercial uses"

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[33] See e.g., Exh. A, p. 12; Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 10-13, 22; Exh. K (10/18 Public Comment Letter #3, PDF pp. 25-26.
[34] See e.g., Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF p 10.
[35] See e.g., Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 10-13,16; Exh. K (10/18 Public Comment Letter #3, PDF pp. 6-12; Exh. O (11/1 Public Comment Letter #7), PDF pp. 52, 57.
[36] See e.g., Exh. A, pp. 4-9; Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 6-23; Exh. K (10/18 Public Comment Letter #3), PDF pp. 8-##; See e.g., Exh. C (10/9 Public Comment # 3), PDF pp. 2; Exh. D (10/9 Public Comment Letter #4), PDF pp. 1; Exh. I (10/18 Public Comment Letter), PDF p. 2;
[37] See e.g., Exh. E (10/9 Public Comment Letter #6 (Dracht)), PDF pp. 16, 25-26, 37.

normally associated with, incidental, and directly oriented to the needs of visitors—contrary to the Coastal Zoning Ordinance. (See SBCC § 35-81.5.2.)

Applicant Response claims changes made to the Resort's retail uses were minor changes and, to the extent already approved, are part of baseline conditions, not warranting further consideration. (Applicant Response, PDF pp. 2-3, 5-6, 23.) However, the changes are significant when considering the added retail square footage that came at the expense of space primarily serving hotel guests (e.g., retail came at the expense of hotel rooms, fitness space, and private theater). Additionally, luxury retailers would draw special trips from visitors who are not already onsite. Furthermore, the added retail is a significant departure from the 2015 Approved Project, which intentionally minimized retail uses from 3,952 sf down to 1,060 sf (total including salon/attached beauty sundry).[38]

Under CEQA, piecemealing does not occur when "projects have different proponents, serve different purposes, or can be implemented independently." (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 280.) Here, the Applicant is the same proponent, and the County has consistently treated the entire 16-acre site as a single luxury Resort, which is comprised of a mix of uses, all serving as the Resort's onsite programming. Additionally, none of the uses can operate independently of each other due to the entire 16-acre site relying on a shared parking program. So too, the Resort's entitlement/CEQA history demonstrates that any modification to the Resort's onsite programming affects the Resort's inter-related shared parking program, which serves as a major constraint on the Resort site. Furthermore, both the 2023 Modified Project (i.e., staff-approved SCDs post-2015) and the current Proposed Project: (i) involve the same proponent; (ii) serve the common purpose of increasing traffic-inducing luxury retail uses; and (iii) are inter-related and dependent on the shared parking program. Essentially, through the staff-approved SCDs (i.e., authorizing the 2023 Modified Project) and the CPC-approved Project Approvals (i.e., the current Proposed Project), the Applicant has undone the Board's careful consideration to eliminate all traffic-inducing retail uses at the Resort (i.e., per the 2015 Approved Project).

Furthermore, to the extent impacts are part of the existing baseline conditions, it is nevertheless proper to evaluate a development's *exacerbating effects* on existing impacts. (See *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194 [quoting *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 377, 388].) Here, the County should consider whether the Proposed Project exacerbates existing impacts. CEQA also requires the consideration of *the cumulative effects* of successive projects of the same type in the same place over time that are significant, which negates the use of an AB 1804 CEQA exemption. (Pub. Res. Code § 21159.27(c)(1), CEQA Guidelines § 15300.2(b).) Here, the 2015 Approved Project, 2023 Modified Project, and current Proposed Project are in the same place and of the same type that may have a cumulative impact.

In sum, the Applicant has piecemealed its environmental review of the expanded retail uses at the Resort site, which needs to be considered in the context of the Proposed Project exacerbating existing impacts that may be cumulatively considerable.

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[38] Ibid.

2. ***Project Exceeds 5-Acre Maximum***

Here, substantial evidence indicates the Proposed Project should be considered as a modification to the 16-acre Resort, which exceeds the five-acre limit. (Pub. Res. Code § 21159.25(b)(3).) As explained above, the Applicant and County have consistently treated the entire 16-acre site as a single luxury Resort comprised of a mix of uses (i.e., programming) that are interrelated and cannot be independently implemented given the shared parking program. The Applicant Response claims the only physical change is to the approximate 3.1-acre parking lots and cites *Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal App 5th 951, which involved a proposed 2.38-acre Costco gas station near an existing Costco warehouse on a 12-acre. (Applicant Response, p. 6.) However, that case is distinguishable. First, the Resort site is located in a semi-rural part of the unincorporated County area, intended to serve as an integrated luxury Resort—unlike the Costco shopping center (e.g., already-built, multi-tenant shopping center, located on major commercial thoroughfare, adjacent to a large expansive retail center). (*Protect Tustin Ranch, supra,* 70 Cal App 5th at 956-957.) Second, the Resort's mixed uses are all inter-related and cannot be independently implemented without a shared parking program to address parking shortfall—unlike the Costco case (e.g., no mention of parking shortfall or necessity for shared parking program, gas station would not change existing operations, no suggestion that parking for warehouse and other uses would be located primarily on gas station development site). (Id.) Third, the Resort's entitlement/CEQA history shows the modification to the Resort's programming should be considered a project change affecting the entire 16-acre Resort, and where the Board specifically considered and deliberately minimized traffic-inducing retail uses at the Resort—unlike the city in the Costco case (e.g., no mention whether City of Tustin considered prior iteration of the gas station project). Fourth, Local 11 also objects to other relevant criteria applicable to the claimed AB 1804 CEQA Exemption (e.g., project piecemealing, land use consistency, cumulative impacts, unusual circumstances, adverse impacts on transportation, parking, coastal resources, VMT/GHGs, etc.)—unlike the petitioners in the Cosco case that challenged "only one of the five criteria for the [Class 32] exemption ...." (Id., at p. 960.)

3. ***Project Appears Inconsistent with Applicable Land Use & Zoning Requirements***

Here, substantial evidence indicates the Project is not consistent with all applicable land use plans, policies, coastal provisions, and Code sections (as summarized/noted above),[39] which negates the use of an AB 1804 CEQA Exemption. (Pub. Res. Code § 21159.25(b)(1).)

4. ***Cumulative Impacts Were Not Adequately Considered***

Here, substantial evidence indicates that the *cumulative impact* of successive projects of the same type in the same place over time is significant, which negates the use of an AB 1804 CEQA exemption. (Pub. Res. Code § 21159.27(c)(1), CEQA Guidelines § 15300.2(b).) Here, the 2015 Approved Project and 2023 Modified Project are in the same place and of the same type as the Proposed Project, and there is substantial evidence that the Proposed Project will exacerbate existing impacts—particularly traffic, parking, GHG/VMTs, and impacts on coastal access. The

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[39] See e.g., Exh. H (10/9 Public Comment Letter # 5 (Chytilo)), PDF pp. 10-13,16; Exh. K (10/18 Public Comment Letter #3, PDF pp. 6-12; Exh. O (11/1 Public Comment Letter #7), PDF pp. 52, 57.

County Planning Commission failed to adequately consider these impacts or consider additional mitigation premised on accurate estimates.

5. Various Unusual Circumstances At Issue

Here, substantial evidence indicates a reasonable possibility of significant effects due to unusual circumstances involving the Resort site, which negates the use of an AB 1804 CEQA exemption. (Pub. Res. Code § 21159.27(c)(2), CEQA Guidelines § 15300.2(c).) First, the Proposed Project is inextricably linked to the 16-acre Resort, which cannot run independently of each other without the shared parking program covering the entire Resort. Second, the Resort site is located in a semi-rural community within the Coastal Zone that provides increasingly rare public parking. Third, the Resort already provides significantly fewer parking spaces than required by the Code, which adversely impacts the adjacent community and requires the unusual circumstance of the Resort securing additional off-site parking locations for its employees. Fourth, the Resort site presents unusual safety concerns, such as the FEMA flood zone (at the northeast lot) and concerns of a repeat of the 2018 debris flow tragedy following the extensive wildfires.[40] Fifth, there is the unusual circumstance that the entire Resort was subject to a prior CEQA review and approval process that included the County Board's explicit consideration and deliberately minimized traffic-inducing retail uses at the Resort site. The County Planning Commission failed to adequately consider these factors, which collectively indicate a reasonable possibility of significant effects on traffic, parking, coastal resources, VMT, and GHG emissions. Nor did the County consider additional TDM strategies, enhancements to the Parking Plan, or other parking solutions to address existing impacts exacerbated by the Proposed Project.

6. Supplemental CEQA Review Was Necessary

The Proposed Project is a modification of the Resort, which cannot be operated independently of the Project absent the shared parking plan, which should be considered in the context of the Resort's prior CEQA review. First, there is substantial evidence that the Resort has had significant changes since the 2000 Initial Project, 2015 Approved Project, 2023 Modified Project, and current Proposed Project. Second, there is a significant change in circumstances from the Resort pre-construction stage when the 2015 Approved Project was last considered by the Board (i.e., County anticipating and modeling operational impacts) to current conditions (e.g., several years of operational data now available). Third, there is significant new information regarding actual operations (e.g., traffic counts, parking space, inventory of employees, GHG mobile emissions, etc.) and the efficacy and potential for additional mitigation. These are valid grounds to supplement the Project's prior CEQA review. (Pub. Res. Code § 21166; CEQA Guidelines § 15162.) The County Planning Commission failed to consider this when it granted the Project Approvals without consideration of additional mitigation measures and modifications to minimize existing impacts exacerbated by the Proposed Project—including those that would not affect the Proposed Project's residential density (discussed further below).

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[40] Supra fn. 33; see also MPC Montecito Rebuild, https://www.countyofsb.org/700/Montecito-Rebuild.

7. ***Failure to Consider Project Alternatives and Mitigation Unrelated to Housing Density***

Here, substantial evidence indicates that mitigation and project alternatives are available that would not reduce the proposed "number of housing units," which have not been considered. (CEQA Guidelines § 21159.26.) Here, the issues raised in this Appeal could potentially be addressed through: (1) *revised traffic, parking, VMT, and GHG studies* relying on Resort-specific, substantiated data related to existing operations and proposed uses (e.g., actual employee inventory, parking/traffic counts, disclosed off-site parking usage, etc.); (2) *potentially adding new mitigation* (e.g., additional TDM measures, enhanced Parking Plan, other parking enforcement solutions, other VMT/GHG-reducing measures, etc.) based on those studies; and (3) *modifying the Proposed Project* by consolidating all *residential uses to the northwest lot* (i.e., all commercial/retail uses to the northeast lot) and considering *alternative uses to the proposed luxury retail center uses*.

None of the above three conditions would impact the number or density of housing of the Proposed Project or require denial of the five requested HAA Waivers. While the Applicant has verbally suggested modifications are financially infeasible, this office is unaware of any documentation showing revised studies, new mitigation, or modifications that would make the Resort financially infeasible. Such bald claims are not substantial evidence. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); CEQA Guidelines §§ 15064(f)(5), 15384.)

IV. CONCLUSION

Local 11 strongly supports housing but is concerned with the Planning Commission's approval of the Proposed Project that relies on a skewed view of the Proposed Project, ignores substantial evidence of existing impacts that the Proposed Project will exacerbate, and is based on an inadequate CEQA review that misapplies the AB 1804 CEQA Exemption. In doing so, the County failed to consider feasible mitigation measures and alternatives that would minimize impacts without affecting the Proposed Project's housing density or requested HAA Waivers.

Therefore, *Local 11 respectfully requests the County Board grant this Appeal and modify the Project Approvals by granting the Waivers and residential densities but requiring implementation of the following three requirements*:

1. Updated traffic, VMT, parking, and GHG studies that assess cumulative impacts at the Resort based on Resort-specific data (subject to public comment).
2. Consideration of enhanced/modified mitigation tied to said new studies, such as additional TDM strategies, enhanced Parking Management Plan components, additional parking solutions, and other measures that reduce VMTs/GHGs.
3. Modification of the Proposed Project that consolidates all residential uses to the northwest lot, commercial/retail uses to the northeast lot, and uses a less traffic-inducing use than the currently proposed retail use (that will likely function as luxury retail shopping center).

Local 11 reserves the right to supplement these comments at future hearings and proceedings for this Project. (See e.g., *Cmtys. for a Better Env't*, 184 Cal.App.4th at 86; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120.) On behalf of Local 11, this Office requests, to the extent not already on the notice list, all notices of CEQA actions and any approvals, Project CEQA determinations, or public hearings to be held on the

Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (See Pub. Res. Code §§, 21092.2, 21167(f) and Gov. Code § 65092.) Please send notice by electronic and regular mail to Jordan R. Sisson, Esq., at the address identified on the cover page.

Thank you for your consideration of these comments. Do not hesitate to contact me directly if you have any difficulty retrieving any referenced. Upon request, this office can provide a full (unabbreviated) hyperlink or hardcopy of any referenced document. We ask that this Appeal letter and any attachments are placed in the administrative record for the Project.

Sincerely,

Jordan R. Sisson
Attorney for Local 11

EXHIBITS INCOPORATED INTO THIS APPEAL:

ATTACHED EXHIBITS:

Exhibit A:[41] 10/9 Local 11 Comments

HYPERLINKED EXHIBITS:

Exhibit B:[42] 11/5 Planning Letter
Exhibit C:[43] 10/9 Public Comment # 3
Exhibit D:[44] 10/9 Public Comment Letter #4
Exhibit E:[45] 10/9 Public Comment Letter #6 (Dracht)
Exhibit F:[46] 10/9 Public Comment Letter #6
Exhibit G:[47] 10/9 Public Comment Letter #7
Exhibit H:[48] 10/9 Public Comment Letter # 5 (Chytilo)
Exhibit I:[49] 10/18 Public Comment Letter
Exhibit J:[50] 10/18 Public Comment Letter #2
Exhibit K:[51] 10/18 Public Comment Letter #3

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[41] https://www.dropbox.com/scl/fi/c2j5zm7e2wpopif6k07t5/PC-Comments.Miramar-Comments.final.pdf?rlkey=ubh27ip5y1va1ltrh4taretvt&dl=0.
[42] https://www.dropbox.com/scl/fi/c2j5zm7e2wpopif6k07t5/PC-Comments.Miramar-Comments.final.pdf?rlkey=ubh27ip5y1va1ltrh4taretvt&dl=0.
[43] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1664627288554.
[44] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1666856375146.
[45] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1666869803855.
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[50] https://cosantabarbara.app.box.com/s/o4z9jfqjpg3h2gp4h9u3zfjicvz4qcld/file/1672756213537.
[51] https://cosantabarbara.app.box.com/s/o4z9jfqjpg3h2gp4h9u3zfjicvz4qcld/file/1673759822189.

Exhibit L:[52]	10/18 Public Comment Letter #4
Exhibit M:[53]	10/18 Public Comment Letter #5
Exhibit N:[54]	11/1 Public Comment Letter #5
Exhibit O:[55]	11/1 Public Comment Letter #7
Exhibit P:[56]	11/1 Public Comment Letter #8
Exhibit Q:[57]	11/1 Public Comment Letter
Exhibit R:[58]	10/9 Public Comment Letter # 8
Exhibit S:[59]	10/9 Public Comment Letter # 10
Exhibit T:[60]	10/30 Applicant Submittal

[52] https://cosantabarbara.app.box.com/s/o4z9jfqjpg3h2gp4h9u3zfjicvz4qcld/file/1673838349807.
[53] https://cosantabarbara.app.box.com/s/o4z9jfqjpg3h2gp4h9u3zfjicvz4qcld/file/1674788505348.
[54] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1686214016786.
[55] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1687292012789.
[56] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1688351716617.
[57] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1680689451617.
[58] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1667982805660.
[59] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1668690059371.
[60] https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/1687290122360.

EXHIBIT A

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October 9, 2024

VIA EMAIL:

Planning Commission, County of Santa Barbra
c/o Planning Commission Recording Secretary (dvillalo@countyofsb.org)

RE: ITEM 2, PLANNING COMMISSION HEARING SCHEDULED OCTOBER 9, 2024; MIRAMAR HOTEL MIXED-USE DEVELOPMENT REVISION (1759 S. JAMESON LN., 93108); CASE NOS. 24RVP-00050, 24RVP-00051, 24AMD-00008, & 24CDP-00077

Dear Chair Martinez and Planning Commissioners:

On behalf of UNITE HERE Local 11 ("**Local 11**"), this office respectfully provides the following comments[1] to the County of Santa Barbra ("**County**") regarding the proposed 34 residential units (8 market rate units and 26 affordable employee units) and 17,500 square feet ("**sf**") of commercial space (15,000 sf of resort shops and a 2,500-sf café) ("**Project**") located within the 16-acre Miramar Beach Resort ("**Resort**"), which opened in 2019 after numerous changes and iterations during its lengthy entitlement history dating back to 2000.

According to the above-referenced item "**Staff Report**,"[2] the Project applicant Miramar Acquisition Co, LLC ("**Applicant**") is seeking various project approvals under the Santa Barbara County Code ("**SBCC**" or "**Code**"), including multiple revisions and amendments to previously issued Development Plan and Conditional Use Permits ("**CUP**(s)") (collectively "**Entitlements**"). (Staff Report, pp. 1-2.) The Project also requires a Coastal Development Permit ("**CDP**") per the California Coastal Act (Pub. Res. Code § 30000 et seq.) ("**Coastal Act**"). (Id., at p. 10.) Additionally, for the purposes of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) ("**CEQA**"),[3] the County is considering whether the Project qualifies for a statutory exemption authorized under Assembly Bill 1804 (Stats 2018, ch 670) ("**AB 1804**") for residential/mixed-use development for infill/urbanized county areas, which sunsets at the end of 2024 (Pub. Res. Code § 21159.25) ("**Exemption**"). (Id., at p. 13-14.) Furthermore, the Project is being processed under the Housing Accountability Act (Gov. Code § 65589.5) ("**HAA**") and seeks waivers from five Code requirements (collectively "**Waivers**") based on State Density Bonus Law (§§ 65915-65918) ("**SDBL**"). (Id., at pp. 3-6.) Herein, "**Project Approvals**" include the Entitlements, CDP, Exemption, Waivers, and Project as a whole.

In short, Local 11 supports housing and hotels that provide onsite employee housing opportunities that offset the induced housing demand caused by operations. This has the added benefit of reducing the vehicle miles traveled ("**VMT**(s)") and associated air and greenhouse gas ("**GHG**") emissions. However, as discussed further below, this Resort appears to rely on decades-old reviews (dating back to 1992), and untested assumptions (merely 100 employees on site) and fails to consider how an 896-sf tennis/sundries shop (proposed in 2000) is anything remotely like eight

[1] Herein, page citations are either the stated pagination (i.e., "**p. #**") or PDF-page location (i.e., "**PDF p. #**").
[2] Inclusive of all attachments ("**ATT-##**") provided via County website. (See https://app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/folder/286225175783.)
[3] Including "**CEQA Guidelines**" codified at 14 Cal. Code. Regs. § 15000 et seq.

luxury shops (roughly 8,500-sf currently existing today), much less the total of 20+ luxury shop and food establishments proposed under the current Project (that adds 17,5000 sf of more luxury resort shopping and food service). For decades, the Applicant—a well-known developer and operator of regional-serving, luxury retail projects—has sought to increase its retail/commercial uses. Now, the Applicant appears to be focusing on the housing component of the Project in order to rely on the SDBL and a soon-expiring CEQA Exemption (which sunsets at the end of the year). However, substantial evidence shows that this Project is inter-related and tied to the larger Resort development dating several decades, and potentially causes project-specific and cumulative impacts related to VMTs, GHGs as well as potentially conflict with public access policies under the Coastal Act, like the California Coastal Commission ("**CCC**") policies on lower-cost overnight accommodations ("**LCOA**(s)"). Additionally, there is substantial evidence that the Project is inconsistent with objective zoning height standards and flood safety concerns.

Despite substantial evidence showing the County could deny the Project, Local 11 is supportive of housing development and urges the County to consider a feasible "**Project Alternative**" to the Project design. As further described below, the current Project design includes two, two-story buildings with resort shops on the ground floor and market-rate housing on the second floors, and subterranean parking below (i.e., Building A and B on the Resort's Northwest Lot); and one three-story building with affordable units spread throughout and massive elevated parking deck supporting parking for most of the Resort parking (i.e., Building C on Northeast Lot). The Project Alternative would eliminate the luxury resort uses, reduce Building C's third floor, and relocate the housing across both lots across all three buildings. Alternatively, Local 11 would support other iterations that maintain proposed residential densities (perhaps even more), subject to the Resort not adding any further luxury, region-serving retail until an adequate CEQA review has been conducted, a holistic assessment of Resort operations, and considerations of further mitigation measures and other strategies to minimize impacts (such as improving on the Resort's inadequate Traffic Demand Management ("**TDM**") program that is achieving only a 20 percent participation rates).

We thank the staff for accommodating this office's request for certain Resort documents, which are still being assessed. Local 11 reserves the right to supplement these comments in the future. In the meantime, Local 11 urges the County to consider a Project Alternative in light of the following comments, which include eight chief concerns (see Section III below).

I. BACKGROUND ON CEQA & AB 1804 EXEMPTION

PURPOSE OF CEQA: CEQA requires lead agencies to analyze the potential environmental impacts of its actions in an environmental impact report ("**EIR**"), which is the very heart of CEQA. (See Pub. Res. Code § 21100.[4] see also.) The *foremost principle* in interpreting CEQA is to afford the fullest possible protection to the environment with a fundamental goal of information, participation, mitigation, and accountability.[5] The dual purpose of CEQA is to, one, *inform decision makers* and the public about the potentially significant environmental effects of a project and, two, avoid or reduce environmental damage by requiring the implementation of *environmentally superior alternatives and all feasible mitigation measures*. (See CEQA Guidelines § 15002(a)(1) - (3).)

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[4] See *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.
[5] See e.g., *Cmtys. for a Better Env't v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109; *Lincoln Place Tenants Ass'n. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 443-44 (citing CEQA Guidelines § 15002)].

STANDARD OF REVIEW FOR SUBSEQUENT REVIEW: Under CEQA, once an EIR has been prepared, a subsequent or supplement EIR is required for granting a later discretionary approval when there have been: (i) substantial changes to the project, (ii) substantial changes in the circumstances involving the project, or (iii) significant new information involving the project. (See Pub. Res. Code § 21166; CEQA Guidelines § 15162.) Numerous courts have required supplemental CEQA review where a prior EIR fails to analyze significant changes in a future project or where there are previously unanalyzed or increased significant impacts.[6]

AB 1804 CEQA EXEMPTION REQUIREMENTS: The AB 1804 Exemption is one of the few special, streamlined review provisions for housing projects under Article 6 (Special Review of Housing Projects) of Chapter 4.5 (Streamline Environmental Review) of Division 13 of the Public Resources Code (i.e., CEQA). As such, Article 6 includes the following general provisions:

1. **Housing Density Reductions as Mitigation**: A public agency may not reduce the proposed "number of housing units" as a mitigation measure for an environment impact if there is another feasible specific mitigation measure or project alternative available. (Id., § 21159.26.) This section, however, does not affect any other requirements regarding residential density of a project. (Id.)
2. **Project Piecemealing**: A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article. (Pub. Res. Code § 21159.27.)

The AB 1804 Exemption was passed in 2018, *sunsets January 1, 2025,* and is intended to streamline housing projects located in urban, infill county areas. (Pub. Res. Code § 21159.25.) Generally, to qualify, the project must meet the following criteria (supported by substantial evidence):

3. **Residential Project**: Project must meet the definitions of a "residential or mixed-use housing project" (subd. (a)(1));
4. **Urban Site**: Site located on legal parcel, no more than five acres, and substantially surrounded by urban uses (subds. (a)(2), (b)(3), (b)(7));
5. **Zoning Consistency**: Be consistent with applicable general plan and zoning designations, policies, and regulations (subd. (b)(1));
6. **Residential Density**: Contain at least six residential units, have a minimum density of six dwelling units per acre, and density cannot be less than the density of nearby adjacent properties (subd. (b)(2));
7. **ESHA**: Site does not include environmentally sensitive habitat areas (subds. (b)(4));
8. **Utility Service**: Site can be served by all required public utilities and service (subd. (b)(6));
9. **Environmental Impacts**: Not result in significant impacts on transportation, noise, air quality, GHG, or water services (subd. (b)(5));
10. **Exceptions to Exemptions**: None of the CEQA exceptions to the exemption to the exception apply (e.g., cumulative impacts, unusual circumstances, scenic resources, located on Cortese list, historic impacts) (subd. (c)(1)-(5); see also CEQA Guidelines § 15300.2(b)-(f)).

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[6] See e.g., *American Canyon Community v. City of American Canyon* (2006) 145 Cal.App.4th 1062, 1073 (increase in size and project changes is substantial change triggering subsequent environmental review); *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929, 934 (public entity violated CEQA when it failed to prepare a Supplemental EIR for significant project changes and new information).

SUBSTANTIAL EVIDENCE STANDARD: Under CEQA, 'substantial evidence' includes facts, reasonable assumptions predicated upon fact, or expert opinion supported by fact; it does not argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous evidence, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); CEQA Guidelines §§ 15064(f)(5), 15384.)

II. BRIEF PROJECT DESCRIPTION & PROJECT HISTORY

As shown below, the Project proposes redevelopment of the Resort's two existing surface parking lots, referred to as the "**Northwest Lot**" and "**Northeast Lot**" (shaded in yellow) within the Resort's existing site plan (bounded in red). Of note, the 12 new resort shops (totaling 15,000-sf) are proposed on the ground floor of Buildings A & B on the Northwest Lot.

Figure: Project Site[7]

Northwest Lot: Includes two, two-story (33'-5" max) buildings referred as Building A and B, which together contains: (i) eight (8) *market rate housing* rental units; (ii) 12 *resort shops* totaling 15,000 sf; (iii) 2,500-sf café; and (iv) 79 *subterranean* parking spaces.	**Northeast Lot**: Includes one, three-story (40'-9" max) building referred as Building C, which includes 26 affordable employee apartments (19 studio, one 1-bed, and six 2-bed) totaling 19,102 sf. The lot will also include 350 reconfigured parking spaces utilizing an elevated parking deck with an approximate 11,682-sf footprint (118' by 99') and will be about 17 feet tall.

[7] Staff Report, pp. 10-11; ATT-I (Historic Report), pp. 4-5; ATT-E (Project Plans), PDF pp. 6, 17-18, 20, 23-24.

The Staff Report includes background information of the Resort's prior approvals dating back to 2015, and other changes made via Substantial Conformance Determinations ("**SCD**(s)"). (Staff Report, pp. 7-10.) Missing, however, is the Resort's lengthy entitlement and CEQA history dating back to 2000, which is also missing from the CEQA Notice of Exemption (ATT-C of the Staff Report). Some of this can be gleaned from various County documents recently released by County staff and/or retrieved from multiple Board of Supervisor Files ("**Board File**") online, such as: the addendums to the previously prepared 2000 Mitigated Negative Declaration (No. 00-ND-003) ("**MND**"), 2008 Supplemental Environmental Impact Report focused on historic impacts only ("**SEIR**"),[8] and various traffic memos from Associated Transportation Engineers ("**ATE**"). For the sake of brevity, the chart below lists notable iterations of the Miramar Resort development proposals since 2000, many of which were planned but not carried out until around 2016.

Table: Resort History
Historic Miramar Hotel (pre-2000 closing):[9] – The existing Resort site included 213 cottage/guest rooms, two employee dwelling units, a 193-seat restaurant, a 140-member tennis club, a spa, a 725-seat banquet hall, 390 parking spaces, etc.
2000 Original Schrager Plan (see Renderings, Landscape Plan, Site Plan):[10] – Applicant's predecessor proposed an initial plan (but not carried out), inclduing 213 *renovated* guest rooms (only eight were planned for replacement), four employee units, only 896-sf retail (i.e., tennis & sundries shop next to courts), replace some buildings, 15-month construction schedule. – Note, this plan intended to remove, *reconstruct or refurbish* buildings to make them "more *reminiscent of the early resort days* when the *small cottages were surrounded by lawns*, flowers, and shrubs—with a *primary goal* was *maintaining current intensity* of usage, *no increase in employees* with roughly 100 onsite at any given time.[11] – CEQA review included the 2000 MND, which tiered off the 1992 Montecito Community Plan Environmental Impact Report ("**MCP EIR**"), generally assessing then-baseline conditions.[12] –
2008 New Caruso Plan (see Board File No. 08-01055):[13] – Applicant proposed new plan (but not carried out), demolition all buildings, 192 replaced guest rooms, four employee dwelling units, 4,978-sf retail in five village structures, required "cottage" type buildings limited to two-stories. – Note, that retail was assumed *incidental and geared towards hotel guests*, and could be used by neighbors in the *immediate vicinity* (e.g., beach recreation, boogie boards, magazines, candy, bakery, etc.). Also assumed only 102 onsite employees and a cottage-

[8] See 2008 SEIR/MND Addendum, PDF pp. 1 (2008 MND Addendum), 72 (2000 MND), 169 (2008 SEIR).
[9] See 2008 SEIR/MND Addendum, PDF pp. 75, 81-82 (discussed in 2000 MND).
[10] Ibid., PDF pp. 72-76 (2000 MND), 81-82 (2000 MND hotel operations), 173-175 (2008 SEIR executive summary), pp. 184-185 (2008 SEIR project description), pp. 205-209 (comparison between Schrager Plan and Caruso Plan).
[11] 2008 SEIR/MND Addendum, PDF pp. 73, 81.
[12] Ibid., PDF p. 86 (2000 MND referenced 1992 MCP EIR); see also 1992 MCP EIR.
[13] 2008 SEIR/MND Addendum, PDF pp. 5, 8-9, 173, 184-185, 188, 200.

type structures. Also, a payment of approximatly $1.4 million was required to offset LCOAs (based on new rooms).[14] – CEQA review included the 2008 SEIR (focused only on historic impacts) ("**SEIR**"), and an addendum to the prior 2000 MND.
2010 Time Extension on Permits (Board File No. 10-00216):[15] – Note, extend time on permits associated with the Caruso Plan, public requests regarding removal of existing structures to alleviate fire/safety risks associated with the vacant site (due to the Resort closing around 2000), and delay payment of LCOA in-liue fees.
2011 Amended Caruso Plan (Board File Nos. 11-00178 & 11-00179):[16] – Citing financial constraints, Applicant proposed an amended plan (but not carried out) that now included 186 guest rooms, four employee units, eliminated tennis courts, and included 3,952-sf of retail consolidated into the main building (among other components). – Note, this plan still assumed 102 employees onsite and retail incidental to guests, and the LCOA fee was adjusted accordingly by reducing the number of rooms, which totaled roughly $ 1.39 million. – CEQA review included 2011 Addendum to prior SEIR/MND
2012 Time Extension on Permits (Board File Nos. 12-00159 & 12-00187):[17] – Note, Applicant sought to extend time on permit associated with the amended plan (still not built), continued safety concerns regarding dilapidated buildings left vacant, and some advocating for and against City subsidy to help Applicant develop Resort.
2015 Amended Caruso Project (Board File Nos. 15-00258):[18] – To improve compatibility with the surrounding community, Applicant proposed another amended plan that reduced the scale of the Resort, now including 170 guest rooms (from 186), 1,060-sf of retail/salon space, and a theater intended for guests (among other changes). – Note, that the plan still assumed only 102 employees onsite, and retail would be incidental to guests and would not draw special trips to the Resort. – CEQA included a 2015 Addendum to prior MND. – Construction seemingly commenced after County's 2015 approval.
2020 Project Change (via SCD Nos. 16SCD-00000-00044, 17SCD-00000-00003 & 00041):[19] – Leading up to 2020, Applicant sought plan changes via SCDs that reduced to 161 rooms and eliminated/converted theater space into 3,518-sf retail.

[14] See 2008 Conditions of Approval, PDF p. 104 (condition 81).
[15] See Board Letter, pp. 2
[16] See 2011 SEIR/MND Addendum, PDF pp. 2-4, 9, 13-14, 24.
[17] See e.g., Montecito Association (citing dilapidated buildings); Santa Barbara County Taxpayers Association (for subsidy); Santa Barbara Region Chamber of Commerce (same); Greater Santa Barbara Lodging & Restaurant Association (against subsidy); Inn of the Spanish Gardens (against subsidy floated by developer).
[18] 2015 SEIR/MND Addendum, PDF p. 2; see also Planning Commission Staff Report, PDF pp. 11, 14, 21, 33; see also 2015 Conditions of Approval, PDF pp. 3-4, 14-15, 25-26.
[19] Staff Report, pp. 8-9; 2021 ACE Traffic Memo, pp. 1-2; 2023 ACE Traffic Memo, pp. 1-2.

2021 Project Change (via SCD No. 21SCD-00000-00020):[20] – In 2021 (via SCD approval), Applicant reduced rooms to 154 by converting seven existing guest rooms into 3-5 retail spaces (in Bungalow Building #1 & #3) totaling 6,227 sf of retail, and added a new 50-seat sushi restaurant.
2023 Project Change (via SCD Nos. 23SCD-00007):[21] – In 2023 (via SCD approval) Applicant converted 743 sf of fitness center into additional resort shop, allowed expansion and reconfiguration of previously approved retail spaces, which now total 8,481-sf.

III. PROJECT CONCERNS

1. SIGNIFICANT RESORT CHANGES & CUMULATIVE IMPACTS MAY WARRANT A SUPPLEMENTAL EIR.

As discussed above, the Resort has undergone numerous changes, which raises concerns about whether impacts have been holistically assessed. For example, the original 2000 Schrager Plan (i.e., 213 renovated rooms, 896-sf tennis shop, other uses) assumed traffic and associated air quality impacts would be largely comparable to 1992 baseline conditions and imposed basic transportation demand measurement ("**TDM**") measures.[22] By 2008 (after years of historic Miramar being closed), in considering the Applicant's new Caruso plan (entire demolition and new development of Resort), the 2008 MND Addendum assumed a baseline condition as if the Schrager Plan was carried out (i.e., 213 rooms), finding it roughly equivalent to the then-proposed Caruso Plan (i.e., 192-room served by 102 employees), and imposed basic annual parking plan reporting requirements.[23] Similar approaches have been used for subsequent Applicant plan proposals between 2008 and 2015, which saw few, if any, new air quality and traffic mitigation.[24] Since 2015, similar approaches have been used in parking studies to justify room reductions and shifting of square footage, including the expansion of resort retail and restaurant space.[25] Based on a limited review of these records, we have the following concerns:

First, *more than 30 years have passed since the 1992 MCP EIR was prepared*, and the Resort has undergone significant changes on paper (2000-2015) and during construction/operations (2015-2023), which includes fundamental differences between a once-LCOA hotel and the now-luxury resort.

Second, *the Applicant agreed to changes between its 2011 and 2015 plans*, which explicitly called for a *single sundry boutique* and salon (totaling 1,060 sf) and private screening theater for hotel guests only. (See excerpts of conditions in figure below.[26]) Yet, through SCD, the Resort has

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[20] Staff Report, pp. 8-9.
[21] Ibid.
[22] 2008 SEIR/MND Addendum, PDF pp. 48, 94-102 (air quality), 149-157 (traffic), p. 153 (assumed only 10 additional non-guest/member visits).
[23] Ibid., at 44-53.
[24] 2011 MND Addendum, PDF pp. 28-29 (air quality), 35-36 (comparing 192-room Caruso plan (2008) versus 186-room Caruso plan (2011)); 2015 MND Addendum, PDF pp. 6-7 (air quality), 9-11 (comparing 186-room Caruso plan (2011) versus 170-room Caruso plan (2015)).
[25] Staff Report, pp. 8-9; 2021 ACE Traffic Memo, pp. 1-2; 2023 ACE Traffic Memo, pp. 1-2.
[26] See also Planning Commission Staff Report, PDF pp. 11, 21, 33.

eliminated the guest-only serving theater, reduced hotel rooms (also guest serving), but added *eight luxury retail establishments* (totaling nearly 8,500 sf).

Third, while estimating future trip rates is reasonable prior to development, the *Resort has been operational since around 2019*, which is a significant change in circumstances allowing the County to assess actual trip rates and confirm fundamental assumptions (e.g., trip rates, onsite employees, etc.).[27] It is also unclear whether the County has considered the annual parking/traffic reports required to be submitted by the Resort.[28]

Fourth, the Resort's *TDM program has experienced only a 20 percent participation* rate (ATT-H, p. 5), which seems ineffective for a previously adopted mitigation measure and may require consideration of additional measures.[29]

Figure: Project Conditions for 2015 Amended Caruso Project[30]

ATTACHMENT 2: PROJECT SPECIFIC CONDITIONS
Case No's: 14RVP-00000-00063, 14CDP-00000-00086, 14CDP-00000-00090, 14CDP-00000-00091

1. PROJECT DESCRIPTION:

###

Project Component	2011 Approved Project (186 key)	Proposed Revised Project (170 key)
Beach Club	3,206 SF (at the oceanfront)	3,870 SF (at the oceanfront)
Retail	3,952 SF	Included in main building SF above (1060 total in retail & salon)

###

Hotel Retail

The Main Building would include a single guest serving/sundries style small retail boutique plus a small guest serving salon within the Main Building. The total retail space has been reduced from 3,952 square feet to 1,060 square feet (retail plus salon).

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Theater Building

The proposed new theater building would operate as a private screening room and conference space for guests of the hotel only and would not be open to the public.

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[27] While the studies mention "data" from existing resorts shops (ATT-J, p. 5, ATT-H, p. 2), that data does not appear to be included.
[28] See 2015 Project Conditions, PDF pp. 32-33 (TDM Program).
[29] See 2015 Project Conditions, PDF pp 48 (Parking Plan).
[30] See 2015 Project Conditions, PDF pp. 1, 4, 14-15.

In sum, these factors suggest there may have been significant changes to the Resort, its circumstances, and information relevant to impact mitigation that should be considered in a Supplemental EIR. (See Pub. Res. Code § 21166; CEQA Guidelines § 15162.) So too, the numerous changes to the Resort, in combination with the proposed Project, may have a cumulative impact that would negate the use of an AB 1804 Exemption. (Pub. Res. Code § 21159.25(c)(1).)

2. COUNTY NEED TO ADDRESS REGIONAL-SERVING, LUXURY SHOPPING USES & HOTEL STAFFING ASSUMPTIONS.

An accurate and complete project description is foundational to fulfilling CEQA's purpose, by providing the public and decisionmakers with adequate information to provide a transparent impact assessment.[31] Here, the Staff Report suggests the proposed retail is primarily guest serving, like the existing previously approved retail uses, and will not substantially change the character of the Resort. (Staff Report, pp. 7, 9, 12, 27.) This is fundamental to the Project's CEQA analysis, which assumes that the proposed retail will have very low trip generation rates (i.e., commonly used ITE rates).[32] However, substantial evidence suggests that this retail is regional-serving, luxury shopping, which may have more trip generation, associated emissions, VMTs, and parking demand.

First, *similar assumptions about retail being local serving were made leading up to the 2015 Resort iteration* when the plan was for a single sundry/salon (totaling 1,060-sf) (see figure above), and again leading up to the current eight shops (totaling 8,481 sf).[33] Yet, establishments are clearly advertised as boutique luxury-brands establishments,[34] which is meaningfully different from what was initially considered in 2000 (i.e., tennis/sundry shop) or 2008 (e.g., immediate neighboring services needs like beach towels, boogie boards, magazines, candy, visitor information, etc.).[35] While a single-sundry next to a salon is likely to be incidental to hotel guests already staying at the Resort, the proposed cluster of 12 new resort shops and café located on the Northwest lot is far more akin to a shopping center, which has a much higher trip generation that a single apparel store (as assumed in the traffic study discussed further below in section 3).

Second, *the County should consider how adding a luxury shopping component would significantly change the Resort's traffic profile, as compared to what was assumed in 2015*. In 2015, it was reasonable to accept that a single, 1,090-sf salon/sundry would not attract many trips to the Resort (beyond hotel guests already staying at the site). However, the Resort now includes eight luxury stores (discussed above) with three eateries (i.e., family dining, fine dining, sushi),[36] with a Project proposing to add another 12 retail stores and one café. Combined, this would be 24 high-end luxury establishments (i.e., 20 luxury retailers and four food/restaurant establishments), which can attract significant trips to the Resort (beyond just hotel guests). (Staff Report, p. 28; ATT-J, pp. 1-4.)

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[31] See e.g., *San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 654-55 (accurate stable project description is sine qua non of an informative and legally sufficient CEQA review); *Western Placer Citizens for an Agr. and Rural Env't v. Cnty. of Placer* (2006) 144 Cal.App.4th 890, 898.
[32] See ATT-H, PDF pp. 2, 4, 34 (analyzed as apparel shop),
[33] See 2023 ATE Traffic Memo, p. 4 (resort shop to "accommodate the convenience of the resort guests.)
[34] See Rosewood Miramar Beach Website, Resort Retail (advertising Loro Piana, Bottega Veneta, Zegna, Brunello Cucinelli, Laykin Et Cie, etc.).
[35] 2008 SEIR/MND Addendum, PDF pp. 5, 188-89.
[36] See ATT-J, p. 4.

Third, a *luxury shopping component can draw significant trips*. Luxury shopping is trending, where patrons are looking for unique shopping experiences.[37] As discussed above, the Project and existing conditions could total 24 high-end establishments, which would be similar to some of the Applicant's well-known luxury shopping centers (often featuring 20+ shops and restaurants).[38] Furthermore, unlike retail contained within the existing hotel building, the proposed Project would construct two stand-alone buildings located at the Resort's prominent corner right off the 101 freeway.

Fourth, *it is time to reassess the assumptions about the Resort's staffing needs (capped at roughly 100 onsite employees).* This assumption dates back to 2000 under the Original Schrager Plan when the intent was to maintain operations and simply refurbish the Resort.[39] Despite the significant changes to the Resort (both on paper and in function), the Applicant still assumes the maximum number of employees on the Resort would be roughly 100 employees at any given time. (Staff Report, p. 7.) While estimating staffing needs may have been justified back in 2015 (when the Resort was still being planned), the Resort is now built and operational and can provide more accurate staffing data, traffic, and parking data. It is unclear if that has been done by County decision-makers or been subject to any public vetting, which should be done before the County authorizes more commercial uses on the Resort. This review should consider all uses and account for the various changes to the Resort's operations post-2015 through the present (including pre- and post-COVID circumstances).

In sum, these issues suggest the Project may not have been accurately described and analyzed in the appropriate context of other changes made to the Resort's operations, which would be contrary to CEQA. So too, the recent serial changes made to the Resort's luxury retail space suggest potentially improper project piecemealing under CEQA or the AB 1804 Exemption. (Pub. Res. Code § 21159.27.)

3. Traffic & Parking Impacts May Affecting Coastal Access.

Here, the Applicant claims no traffic impacts to the level of service ("**LOS**") or parking. (Staff Report, pp. 19-21; ATT-H [Traffic & VMT Study]; ATT-J [Parking Study].) However, the LOS analysis assumed the retail component would have a trip generation akin to an apparel store (ITE Code 876), then cut in half (assuming 50% would be internal hotel guests), and reduced by another 40 percent (assumed pass-by trips). (ATT-H, PDF pp. 2, 4, 34.) While claiming this trip rate was 75 percent lower than what "Data from ... Miramar show" (id., at p. 2), the Staff Report does not provide the documentation supporting this claim, which is not substantial evidence.

First, as previously discussed, the proposed resort shops may function as a regional-serving, luxury shopping center, which *could generate trips more akin to the levels of a retail strip plaza* (i.e., ITE Code 822) or shopping plaza (ITE Code 821).[40] In fact, the traffic study cited ITE Code 821 when applying hourly trip rates (ATT-H, PDF p. 36), and the Project's GHG Study utilized the retail strip

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[37] See e.g., CNBC, Gen Z is driving luxury sales as wealthy shoppers get younger; RetailNext: Tracking the Evolution of Luxury Retail.
[38] See e.g., Caruso Signature Website, Explore Our Destination (listing in its portfolio: The Commons at Calabasas, The Promenade at Westlake [Thousand Oaks], The Waterside at Marina Del Rey).
[39] See 2008 SEIR/MND Addendum, PDF pp. 73, 81.
[40] See e.g., WisDOT Letter RE: Trip Generation Manual 11th Ed. Guidance on Application, pp. 2, 8; Phoenix Oregon Chart RE: PM Peak Hour Generation Rates, pp. 3.

plaza rates,[41] which supports the rationale of applying similar trip generation rates for traffic generation.

Second (also mentioned earlier), *it is unclear whether the Resort's fundamental assumption that onsite employees are limited to 102 is accurate*. For example, the parking study assumes that the Project's proposed 2,500-sf café would require only five employees (ATT-J, p. 4), but the Project GHG Study assumes that it will require 11 full-time employees.[42] This is factually inaccurate and seemingly self-serving. Furthermore, it is difficult to surmise why it would take 11 full-time employees to run a single safe (purportedly primarily serving guests), at the same time, it would only take 50 employees to run the 154-room hotel (as suggested in the Parking Study). (ATT-J, p. 4.)

Third, *these issues also infect the Project's parking analysis*, which calls for an addition of only 45 parking spaces to the existing 435 spaces provided. (See ATT-J, pp. 4-3.) Together, this may cause an underassessment of the Resort's cumulative onsite parking demand. This is significant because it can lead to spillover effects, whereby Resort patrons take up the public parking spaces along Eucalyptus Lane and South Jameson Lane.[43] This may conflict with Coastal public access policies,[44] which negates the use of an AB 1804 Exemption. (Pub. Res. Code § 21159.25(b)(1).)

In sum, the proposed Project Alternative would address these LOS and parking impacts.

4. VMT IMPACTS NEED MORE CONSIDERATION, INCLUDING ENHANCED TDM MEASURES.

Here, the Applicant claims there will be no VMT impact. (Staff Report, pp. 19-21.) However, this was based on the County's VMT calculator, which screens out all commercial uses under 50,000 sf. (Id.; ATT-H, PDF pp. 18-20.) This is a presumption that only applies absent substantial evidence.[45] Here, as discussed above, there is substantial evidence that the Project's commercial uses would be regional serving and thus warrants an actual VMT analysis. This should also consider the cumulative VMT impacts of the Resort as a whole to consider feasible mitigation.

Additionally, it is worth noting that the VMT analysis seems to mischaracterize the Resort as being within 10 minutes of two bus stops. (Id., at PDF p. 60.) These two stops are both north of the 101 freeway, about a 27– to 38-minute walk (based on Goole Maps).[46] Furthermore, as mentioned earlier, the Resort is achieving only a 20 percent participation rate in its TDM program.

In sum, more analysis seems warranted, which should include an actual VMT study looking at the collective VMT impact of the Resort. This is also relevant because a traffic impact negates the use of an AB 1804 Exemption. (Pub. Res. Code § 21159.25(b).) This could be avoided via the Project Alternative, which would remove regional VMTs. So too, Local 11 urges the County to reconsider assessing the entire Resort operation for enhancements to its TDM program.

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[41] See Project GHG Study, PDF p. 16.
[42] See Project GHG Study, PDF pp. 20, 22.
[43] See . 2008 SEIR/MND Addendum, PDF pp. 41-42 (relied in 2008 SEIR/MND Addendum), 2011 SEIR/MND Addendum, PDF pp. 3 (intended to improve public access).
[44] See . 2000 MND, PDF p. 154-155; 2008 Approvals, PDF p. 206, 209.
[45] See . County VMT Tool, p. 11; OPR, PDF p. 16.
[46] While the bus stop at Jameson/Miramar is approximately 32 minute walk from Northwest Lot (see GoogleMaps) and 38 minute walk from Northeast Lot (see GoogleMaps), the bus stop at San Ysidro./San Leandro is 27 minute walk from Northwest Lot (see GoogleMaps) and 33 minute walk from Northeast Lot (see GoogleMaps).

5. FLOODING AND SEA LEVEL RISE CONCERNS SHOULD BE ADDRESSED MORE CAREFULLY.

Here, the Project includes a proposed three-story Building C on the Northeast Lot, which is a recognized flood zone. (ATT-C, p. 12.[47]) Flood concerns have been raised in the past on prior iterations of the Resort, including concerns about the effect of sea-level rise ("**SLR**"). Here, the Applicant's "**SLR Study**" (dated June. 11, 2024) seems to downplay these concerns by attacking the data relied on by the County and CCC, which may indicate flood risk could be higher.[48] The SLR Study is used to establish the finish floor height of Building C,[49] which also seeks waivers from objective 38-foot, two-story height limits. (ATT-L, p. 2; ATT-B-4, PDF p. 25.) There is concern that placing a three-story, affordable housing building in a flood zone may impact public safety. The Proposed Alternative would help minimize flood risks, because it would allow all proposed residential square footage and unit density to be allocated within three, two-story buildings located in the same proposed locations. This alternative seems more than feasible given it essentially requires the reallocation of one-story of residential (i.e., 3rd story Building C) among the two available stories (i.e., 1st floor of Building A and/or Building B). This would mitigate an apparent inconsistency of objective development standards (e.g., height limits, other Code waivers) claimed to preclude the residential development.

6. COUNTY SHOULD CONSIDER NEEDED LCOAS ENHANCEMENTS.

As previously discussed, the proposed resort shops seem likely to be regional-serving, luxury retail. So too, the eight proposed market-rate residential units are likely to be luxury. This raises concerns about the Coastal policies that encourage the provision of LCOAs. (Pub. Res. Code § 30213.) The Resort already removed over 213 LCOAs from the site, for which the Applicant paid a total of $1.39 million in 2011.[50] That value was based on an LCOA in-lieu fee structure, calculated as: (amount of new high-cost guest rooms) x (0.25) x ($30,000). (Id.) More recently, the Coastal Commission has applied a much higher in-lieu fee rate of $429,000 per room, and only after finding replacement rooms restricted at lower-costs is financial infeasible.[51] At that current rate, adjusted for inflation (i.e., approximately $307,000), multiplied by the current number of Resort rooms (i.e., 154), multiplied by 25 percent, would equate to $11.8 million in-lieu fees—nearly 10-times what the Applicant paid. Not only does this amount to a missed opportunity, but also begs the question whether Santa Barbara County is currently meeting the LCOA needs of the community. These issues should be resolved before the County grants more luxury-oriented development approvals for the Resort, which lies on former LCOA land. Under the circumstances, the Proposed Alternative of removing the luxury retail seems reasonable, and financially viable given it still permits eight luxury, market-rate units in addition to the 154-room Resort, and 8,000+ sf of luxury retail and other revenue-generating enterprises (e.g., restaurant, dining, bars, beach club).

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[47] See County Planning GIS Map; see also Project SLR Study, p. 3.
[48] *Compare* Project SLR Study, pp. 4 (critical of the more conservative estimate of 5.3 ' -6.6' SLR) *with* p. 18 (recommending 4.5' estimate based on different data).
[49] Ibid.; see also Staff Report, pp. 25; ATT-B4, p. 44.
[50] See 2008 Conditions of Approval, PDF p. 104 (condition 81); 2015 Project Conditions, PDF pp. 54 (crossed off once paid).
[51] See e.g., Dana Point Harbor Hotels (LCP-5-DPT-21-0079-2) Coastal Staff Report, pp. 30-58, https://documents.coastal.ca.gov/reports/2024/6/F10a/F10a-6-2024-report.pdf; American Tin Cannery Hotel Resort (CDP No. A-3-PGR-22-0004) Coastal Staff Report, pp. 42-51, 75-80, https://documents.coastal.ca.gov/ reports/2024/4/Th15b/Th15b-4-2024-report.pdf.

7. GHG IMPACTS UNDERSTATED DUE TO FACIALLY INACCURATE EMPLOYMENT ASSUMPTIONS.

The Applicant claims the Project would not have a GHG impact based on the Project meeting an applicable efficiency threshold, which is calculated by the Project's modeled GHG emissions (commonly referred as CalEEMod), divided by the Project's service population (i.e., residents + full-time employees). (ATT-C, pp. 11-12.) For example, according to its CalEEMod results, the Project is expected to generate only 584 MTCO2e per year of GHG emissions, which divided by its purported total service population of 157 (i.e., 96 full-time residents + 50 full-time shop employees + 11 full-time café employees), result in a 3.7 MTCO2e/yr per service population efficiency level, which is below the County's 3.8 MTCO2e/yr per service population threshold. (Id.)

However, when examining the Project's GHG study dated June 2024 ("**GHG Study**"),[52] it seems clear that the *estimated employees are very possibly inaccurate*. CalEEMod is based on a default assumption, which can and should be altered by the user when more accurate project-specific information is supported by substantial evidence. (GHG Study, PDF pp. 5, 20.[53]) Here, the Applicant estimated that there would be 50 full-time shop employees and 11 full-time café employees. (Id., at PDF pp. 20, 22.) Yet, there is no justification for this value or any evidence to support this claim. Additionally, it is facially inconsistent to assume that a café purportedly serving primarily hotel guests needs 11 full-time employees when the Project also assumes that only five full-time employees are needed to assess parking impacts. Moreover, common sense suggests that it is unreasonable to assume 61 employees are needed for the incidental café/retail uses when it purportedly takes only 50 employees to serve all 154 rooms of the Resort. (Id.) Here, these self-serving assumptions do not seem supported by substantial evidence.

Here, it takes only three employees to change the above analysis from no impact (i.e., 584 / 157 = 3.71) to finding an impact (i.e., 584 / 154 = 3.81). Nor has there been an assessment of the cumulative GHG impacts caused by the entire Resort operation, including a holistic assessment to comprehensively mitigate the Resort's GHG profile (e.g., enhance TDM measures, expanding solar, etc.). This is important because GHG impacts would counter an AB 1804 Exemption (Pub. Res. Code § 21159.25(b)(5)), which would be fixed under the Project Alternative that would maintain residential units onsite (i.e., reduce employee emissions) and avoid the potentially understated emissions (i.e., regional, luxury shoppers driving great distance).

8. STATE DENSITY BONUS LAW DENSITY CALCULATIONS NEED CLARITY.

Here, Applicant is proposing 34 new multi-family residential units, including four market-rate units on the second floor of both Building A and B on Northwest Lot (i.e., eight units totaling 9,883 sf), and 26 affordable units throughout the 3-story, Building C on the Northeast Lot (i.e., 19,102). (See Staff Report, pp. 5, 10; ATT-H, p. 2.) Typically, SDBL works to provide a "density bonus" in an amount over and above the maximum allowable gross *residential* density (i.e., base density) (Govt Code § 65915(f) & (o)(6)), which logically involves allowing a greater number of residential *units* and related *square footage*. Here, the Applicant acknowledges that under existing plans, only 2,144 sf of existing square footage is allowed. (ATT-L, p. 2.) It is unclear how this minimal amount can be used to massively increase the commercial square footage by an additional 17,500 sf (i.e., roughly by a factor of 8), while also ignoring the added density bonus square footage associated with the new market-rate and affordable housing.

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[52] See Project GHG Study.
[53] See also CalEEMOD User Guide, PDF p. 6, 10, 37.

Local 11 is supportive of housing, particularly affordable housing on hotel properties. As such, and out of an abundance of caution, Local 11 urges the County to consider all the requested waivers to the extent feasible to permit the requested residential units and density, subject to no additional square footage utilized for luxury resort shops.

In conclusion, these issues may indicate the Project does not qualify for SDBL or AB1804 Exemption. However, Local 11 strongly supports housing and urges the County to consider its Project Alternative or similar proposals that (a) allow for all the requested residential density but (b) exclude the additional luxury retail until the full impacts of the Resort operations are holistically assessed and mitigated under a CEQA-compliant review.

Local 11 reserves the right to supplement these comments at future hearings and proceedings for this Project. (See e.g., *Cmtys. for a Better Env't*, 184 Cal.App.4th at 86; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120.) On behalf of Local 11, this Office requests, to the extent not already on the notice list, all notices of CEQA actions and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. (See Pub. Res. Code §§, 21092.2, 21167(f) and Gov. Code § 65092.) Please send notice by electronic and regular mail to Jordan R. Sisson, Esq., at the address identified on the cover page).

Thank you for consideration of these comments. We ask that this letter and any attachments are placed in the administrative record for the Project.

Sincerely,

Jordan R. Sisson
Attorney for Local 11