



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: March 24, 2015
Placement: Set hearing on 3/24/15
for 4/14/15
Estimated Time: 2 hours on 4/14/15
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D. Director, Planning and Development
Director (805) 568-2085
Contact Info: Alice McCurdy, Deputy Director, Development Review
(805) 568-2518
SUBJECT: Appeals (Case No. 15APL-00000-00001 and 15APL-00000-00002) of the Montecito Planning Commission's Approval of the Miramar Hotel and Bungalows Project (Case No's: 14RVP-00000-00063, 14AMD-00000-00010, 14AMD-00000-00011, 14CDP-00000-00086, 14CDP-00000-00090, 14CDP-00000-00091)

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On March 24, 2015, set a hearing for April 14, 2015 to consider the appeal of the Montecito Planning Commission's January 21, 2015 approval of the Miramar Hotel and Bungalows Project.

On April 14, 2015 staff recommends that your Board take the following actions:

1. Deny the appeals, Case Numbers 15APL-00000-00001 and 15APL-00000-00002;
2. Make the required findings for approval of the project specified in Attachment-1 of this Board Letter, including CEQA findings;
3. After considering the March 24, 2015 Addendum (Attachment-3) together with the previously certified Environmental Impact Report [08EIR-00000-00003], the previously adopted Mitigated Negative Declaration [00-ND-003] and the previous Addenda dated December 9,

2008 and March 11, 2011 (Attachment-4) determine that no subsequent Environmental Impact Report or subsequent Negative Declaration shall be prepared for this project because none of the conditions described in CEQA Guidelines Section 15162 have occurred; and,

4. Approve *de novo* the project, Case Numbers 14RVP-00000-00063, 14AMD-00000-00010, 14AMD-00000-00011, 14CDP-00000-00086, 14CDP-00000-00090, and 14CDP-00000-00091 subject to the conditions of approval included as Attachment-2 to this Board Letter.

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and, if necessary, conditions of approval.

The application involves AP No's. 009-371-003 and -004; 009-372-001; 009-343-010; 009-333-010; 009-344-008; and 009-010-002, located at 1555 South Jameson Lane, in the Montecito area, First Supervisorial District.

Set Hearing Discussion:

Two appeals of the Montecito Planning Commission's January 21, 2015 approval of the Miramar Hotel and Bungalows project were filed. The first appeal was filed by the Law Office of Robert Silverstein on behalf of the Pachulski family. The second appeal of the Montecito Planning Commission approval was filed by Caruso Affiliated, the applicant for the proposed project.

Caruso Affiliated has requested a hearing date of either April 14, 2015 or April 21, 2015 to provide for the timely processing of the project appeals. Timely processing of the appeal is in the interest of Caruso Affiliated due to the revenue loss associated with carrying costs for the property, delays in the ability to construct the hotel, and financing uncertainties. In addition, Caruso Affiliated CEO Rick Caruso is unavailable for the May 5, 2015 hearing. Further details are provided in a memo from Caruso Affiliated, included as Attachment-16.

The Law Office of Robert Silverstein, on behalf of the Pachulski family, has requested a hearing date of either May 5, 2015 or May 12, 2015. These dates have been requested due to the fact that April 14, 2015 is the deadline to submit a reply brief for a case Mr. Silverstein is counsel for and because Mr. Silverstein is scheduled to be in court on April 21, 2015.

Based on this information, staff recommends that your Board set a hearing for April 14, 2015 to consider the appeals of the Montecito Planning Commission's January 21, 2015 approval of the Miramar Hotel and Bungalows Project.

Project Summary

Two timely appeals of the Montecito Planning Commission's January 21, 2015 approval with conditions of the Miramar Hotel and Bungalows project (case no's: 14RVP-00000-00063, 14AMD-00000-00010, 14AMD-00000-00011, 14CDP-00000-00086, 14CDP-00000-00090, and 14CDP-00000-00091) were filed. The first appeal was filed by the Law Office of Robert Silverstein on January 27, 2015 on behalf of the Pachulski family (Attachment-5). The second appeal of the Montecito Planning Commission approval was filed by Caruso Affiliated, the applicant for the proposed project, on January 29, 2015 (Attachment-6). The currently proposed project (proposed revised project) is a revision to the Miramar Hotel and

Bungalows project approved by the Board of Supervisors on March 15, 2011 (the 2011 approved project). While the overall plan layout and amenities to be provided by the resort have not changed significantly, a number of revisions are proposed, including: a reduction in overall square footage from 258,860 square feet to 208,354 square feet; reduction in the number of guest rooms from 186 to 170; elimination of the spa building previously located in the northwestern portion of the site; an enlarged Main building set back further from South Jameson Lane; construction of a new theater building within the setback from South Jameson Lane; an increase of the West Lanai buildings from one to two stories; elimination of all underground parking and creation of a new surface parking lot in the previous location of the spa building; reduction in the maximum allowable attendance for events from 500 persons to 400 persons; reduction in the total length of the sound wall located along South Jameson Lane; and a redesign of the architectural style of the hotel consistent with the “Cottage Type Hotel” tradition within the Montecito Community. On January 21, 2015 the Montecito Planning Commission approved, by a vote of 3 to 2 the proposed revised project. The project approved by the Montecito Planning Commission incorporates changes to the project conditions including, but not limited to, reduction of the initial maximum event attendees from 400 to 350 and reduction in the initial number of beach club memberships from 200 to 100. Please see the action letter (Attachment-12) for a full description of the project changes required by the Montecito Planning Commission as a part of its January 21, 2015 approval. Please refer to the November 21, 2014 Montecito Planning Commission Staff Report and the December 11, 2014, January 13, 2015, and January 16, 2015 memoranda to the Montecito Planning Commission, (Attachments 8-11) for further details on the proposed project and for a comprehensive analysis of policy consistency.

Appellant Issues and Staff Responses:

LAW OFFICE OF ROBERT SILVERSTEIN

- 1. The appellant states “*the CEQA review is flawed and uses improper baseline conditions based on a 2003 Mitigated Negative Declaration.*” (Silverstein appeal letter, item 1, page 1).**

Baseline conditions for the project are found in the package of environmental review documents prepared for the Miramar Hotel and Bungalows project and begin with the operational Miramar hotel levels of use. The environmental review documents include: 1) Mitigated Negative Declaration (00-ND-003), 2) Environmental Impact Report (08EIR-00000-00003), and 3) the December 9, 2008 and March 11, 2011 Addenda to 00-ND-003. These documents appropriately describe the baseline conditions for the proposed project. The EIR was certified by the Board of Supervisors and Mitigated Negative Declaration (00-ND-003), the December 9, 2008 Addendum, and the March 11, 2011 Addendum have been adopted by the Board of Supervisors. The addenda prepared for the currently proposed project appropriately tier from the adopted/certified package of environmental review documents described above.

- 2. The appellant contends that the proposed project modifications are not “minor technical changes” and that an Addendum is therefore not the appropriate environmental review document for the project (Silverstein appeal letter, item 1, page 1).**

When determining the appropriate environmental review for the project, CEQA Section 15162 and CEQA Section 15164 must be considered in concert. CEQA Section 15162 (Subsequent EIR and Negative Declaration) states the following:

When an EIR has been certified or a Negative Declaration adopted, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects;*
- (2) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the EIR or Negative Declaration due to involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects; or*
- (3) New information of substantial importance which was not known could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the Negative Declaration was adopted, shows the following:*
 - (A) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration.*
 - (B) Significant effects previously examined will be substantially more severe than previously shown in the previous EIR.*
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent decline to adopt the mitigation measure or alternative.*

CEQA Section 15164 (Addendum to an EIR or Negative Declaration) states as follows:

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.*
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary.*
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.*

(d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

(e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence

Under CEQA Guidelines Sections 15162 and 15164, an Addendum is the appropriate environmental document for considering changes to a project already analyzed in an adopted negative Declaration or EIR that will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As documented in the Addendum prepared for the project dated March 24, 2015, (included herein as Attachment-3), the staff memorandum to the MPC dated January 13, 2015 (included herein as Attachment-10) and in testimony at the January 13, 2015 hearing, the proposed project revisions would not result in any new significant environmental effects nor would they result in a substantial increase in the severity of previously identified significant effects. Therefore, an Addendum is the appropriate environmental document for the proposed revised project.

3. The appellant contends that the Addendum fails to adequately analyze existing water supply/demand and that the Montecito Planning Commission abused its discretion in approving the project relative to water supply, particularly with respect to Coastal Land Use Plan Policy 2-6 (Silverstein appeal letter, items 1 and 4 , pages 1 and 2).

The Addendum prepared for the proposed revised project and staff memoranda for the project address the topic of water supply extensively. As discussed in the Addendum dated November 21, 2014, the staff memorandum to the Montecito Planning Commission dated January 13, 2015, and in testimony provided by Montecito Water District Manager Tom Mosby at the December 15, 2014 hearing, the Montecito Water District considers the Miramar hotel an existing customer (based on the presence of 5 existing meters on-site) and will honor the 45 Acre Foot/Year (AFY) allocation given to the project. As stated in the August 28, 2014 letter from the Montecito Water District, the 45 AFY allocation given to the project represents less than 1% of the available water supply (allocations) under Ordinance 93. Furthermore, due to supplemental water purchases by the Montecito Water District and conservation measures by District customers, water supplies for 2014/2015 are now estimated at 6,300 AF, which is far in excess of the water supply (5,300 AF) identified under Ordinance 93 (verbal communication, Tom Mosby, Montecito Water District General Manager, February 19, 2015). Therefore, adequate water is available to serve the project and the Montecito Planning Commission did not abuse its discretion in approving the project relative to water supply.

Coastal Land Use Plan Policy 2-6 requires that, *“Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development . . .”* The 45 AFY allocation was derived by the Montecito Water District through a detailed calculation based upon specific project details. Adequacy of the allocation was confirmed by the applicant’s consultant, Dudek &

Associates. As discussed above, the Montecito Water District has confirmed in writing, in testimony to the Montecito Planning Commission on December 15, 2014, and in direct conversation with staff on multiple occasions (most recently on February 19, 2015) that it will serve the proposed revised project. The District has also provided data to support its ability to serve and confirmed that water use by the proposed project will not result in a substantial reduction in the amount of water otherwise available for public water supply. Therefore, the proposed project would be consistent with the requirements of Coastal Land Use Plan Policy 2-6 and the Montecito Planning Commission acted appropriately in approving the project relative to water supply.

4. The appellant contends the Addendum fails to adequately analyze parking and circulation impacts on the surrounding neighborhood (Silverstein appeal letter, item 2, page 2).

The Addendum for the proposed revised project (Attachment-3) tiers off of Negative Declaration 00-ND-003 and its Addenda dated December 9, 2008 and March 11, 2011 (Attachment-4). Therefore, the full environmental analysis of parking and circulation is contained within both the Addendum for the proposed revised project and the previously adopted Negative Declaration and Addenda. The Addendum for the proposed revised project provides an updated discussion of traffic and circulation based upon the current project description. In addition, the January 13, 2015 staff memorandum to the Montecito Planning Commission (Attachment-10) discusses parking and circulation in detail and provides Public Works Transportation Division peer review comments which validates the conclusions of the applicant's traffic consultant, Associated Transportation Engineers. The Addendum and the staff memorandum confirm that the proposed revised project would result in fewer traffic trips than all previous project approvals, would provide adequate parking, and would continue to result in no significant impact to area roadways and intersections.

5. The appellant contends the Addendum fails to adequately analyze cumulative impacts associated with Highway 101 widening and interchange improvements and the potential loss of parking in connection with widening (Silverstein appeal letter, item 1, pages 1-2).

The Addendum for the proposed project tiers off of Negative Declaration 00-ND-003 and its Addenda dated December 9, 2008 and March 11, 2011. The Addendum prepared in 2008 analyzed the potential for the South Coast Highway 101 High Occupancy Vehicle (HOV) project to impact the Miramar Hotel project and determined that there would be no cumulatively considerable impacts in that regard. As discussed in the 2008 Addendum, the South Coast Highway 101 HOV project would not impact South Jameson Lane or the Miramar Hotel property, would not result in negative impacts to the property due to ramp improvements, and would not overlap with construction of the hotel. These conclusions continue to be the case for the currently proposed project.

Interchange improvements at San Ysidro Road and Highway 101 are speculative. However, a discussion of conceptual interchange improvement designs prepared by Public Works is included both in the Addendum for the project and in the January 21, 2015 staff memorandum to the Montecito Planning Commission. The documents indicate that while the designs are conceptual, future improvements could require use of land on the Miramar hotel property, along both Eucalyptus Lane and South Jameson Lane. However, no funding has been secured, no

applications for development have been submitted, and no project applicant has been established for San Ysidro Road/Highway 101 interchange improvements. In addition, based on the early stage of discussions regarding interchange improvements, it could likely be many years before any improvements (should they occur) would be at the design, permitting and construction stage. Therefore, should there be any conflicts between the hotel project and interchange improvements, they would be considered at the permitting and environmental review stage for the potential interchange project.

6. The appellant contends that the Montecito Planning Commission abused its discretion in approving a modification to the parking requirements of the Coastal Zoning Ordinance (Silverstein appeal letter, item 2, page 2).

Modifications to parking requirements are allowed in association with Development Plans (Article II, Section 35-174.8.1). Furthermore, Section 35-107.5 of the Coastal Zoning Ordinance (Article II) specifically allows for parking for Conjunctive Uses to be based upon operations during the Peak Parking Period, stating, *“In order to encourage efficient use of commercial parking space and good design practices, the total parking requirement for mixed uses or Conjunctive Uses shall be based on the number of spaces adequate to meet the various needs of the individual uses operating during the Peak Parking Period.”* The peak parking demand for the project was calculated by the applicant’s consultant, Associated Transportation Engineers (ATE), and was independently peer reviewed and found to be accurate by the County Public Works Transportation Division. The peak parking demand was based upon an assumption of 100% hotel occupancy, 300 beach club members, and 400 event attendees. However, stabilized occupancy of the hotel is expected to be 76% and the 300 beach club members and 400 event attendees will be phased in at the discretion of the Montecito Planning Commission (MPC) based upon proven adequacy of parking as reported to the MPC within 12-18 months of initiating operations for event attendees and within 36-42 months of initiating operations for beach club memberships. Therefore, it is expected that the hotel will regularly operate with an excess of parking spaces. After careful consideration of the technical information and testimony provided by staff, the MPC made the findings to support the requested parking modifications (please see Attachment-A to the November 21, 2014 staff report). As such, the MPC did not abuse its discretion in approving the modification to the parking requirements of the Coastal Zoning Ordinance.

7. The appellant contends that the Montecito Planning Commission abused its discretion in approving a modification to the minimum building setbacks required by the Coastal Zoning Ordinance and that the findings required by the ordinance to permit modifications cannot be made (Silverstein appeal letter, item 3, page 3).

The criteria listed by the appellant as required findings for approval of a modification relate to “Modifications” as discussed in Section 35-179 of the Coastal Zoning Ordinance and do not relate to “modifications” that may be approved in conjunction with a Development Plan. The criteria listed by the appellant are therefore not applicable in the instant case. Modifications to setback requirements are allowed in association with Development Plans pursuant to Article II, Section 35-174.8.1. Previous project iterations, approved in 2008 and 2011, received approval from the Montecito Planning Commission (MPC) and Board of Supervisors for setback

modifications. For the currently proposed project, the MPC made the specific and appropriate findings to support setback modifications (please see Attachment-A to the November 21, 2014 staff report). Therefore, the MPC did not abuse its discretion in granting the approval and the required findings were appropriately made.

8. The appellant contends that the self-parked bungalows as approved will be situated in a manner that denies the public the ability to use the public road right-of-way for public parking (Silverstein appeal letter, item 3, page 3).

The project would result in a net increase in the number of public parking spaces along the east/west (E/W) segment of Miramar Avenue. There are currently seven public parking spaces available on the north side of the E/W segment of Miramar Avenue and seven public parking spaces on the south side of E/W Miramar Avenue. While the project will remove the seven public parking spaces on the north side of the road, it will add ten new parking spaces on the south side of E/W Miramar Avenue by widening a segment of the roadway that is currently too narrow to support public parking and vehicle travel. Currently, development on the appellants' own property extends into the public right-of-way. The proposed project widens the full length of E/W Miramar Avenue without impacting the right-of-way on the appellants' property. Therefore, the proposed project not only results in a net increase in public parking along E/W Miramar Avenue, but also widens the roadway without impacting the appellants' property or requiring that the appellant give up their own use of the County right-of-way.

9. The appellant contends that “ . . . *absent any separation or screening, the orientation of the bungalows within the required setback will introduce a high volume/high intensity visitor-serving commercial use to an existing semi-rural residential neighborhood. The resulting traffic, competition for limited parking spaces, noise, and pedestrian traffic is incompatible with the surrounding neighborhood and creates adverse impacts for nearby residents. Therefore, the finding for approval cannot be made and the Project must be denied.*” (Silverstein appeal letter, item 3, page 3).

The Miramar hotel property is zoned visitor-serving commercial and has historically supported a hotel use. Therefore, hotel use is an existing facet of the neighborhood character and does not represent the introduction of a new use-type within the area. The proposed bungalows are residential in scale and design and are envisioned and designed to be utilized by families and guests who are seeking a longer-term hotel stay. The hotel will not utilize public parking spaces along E/W Miramar Avenue. Hotel guests will be required to valet park or to park in designated hotel parking spaces located on private hotel property adjacent to E/W Miramar Avenue. As described in detail under appeal item 8, above, the project will create three additional public parking spaces along E/W Miramar Avenue, a beneficial impact to public parking in the area. Pedestrian use of public streets and right-of-way areas is not incompatible with the residential use. Use of E/W Miramar Avenue for public pedestrian access to the beach is an existing condition. Furthermore, policies of the Coastal Land Use Plan and Coastal Act protect and encourage public pedestrian access to the shoreline.

10. Through reference to the January 16, 2015 letter to the Montecito Planning Commission, the appellant comments that a minimum 8 foot tall sound wall and hedge should be required along E/W Miramar Avenue (Silverstein appeal letter, “Grounds for Appeal,” page 1).

As discussed in item 9, above, hotel use is an existing aspect of the project neighborhood and the proposed bungalows along E/W Miramar Avenue would be compatible with the residential nature of the area. The bungalows are residential in scale and design and would be aesthetically compatible with the neighborhood. A sound wall would not be necessary as the hotel use would not exceed 65 decibels at the property line (as required by the Noise Element) along E/W Miramar Avenue. Noise generated by hotel operations along E/W Miramar Avenue would not exceed the noise levels produced by existing neighborhood use and by the train, which regularly travels past the homes along E/W Miramar Avenue.

11. Through reference in the appeal to their January 16, 2015 letter to the Montecito Planning Commission, the appellant contends that the number of employees proposed for the hotel “seems exceedingly low” and that no breakdown of employees by department has been provided (Silverstein appeal letter, “Grounds for Appeal,” page 1).

At the time of their January 16, 2015 letter, the appellant had not yet had the opportunity to review the applicant’s submittal from PKF Consultants, a nation-wide hotel consulting firm. The memo from PKF Consultants (included as a part of Attachment-11 to this Board Letter) estimates the total number of employees based on the proposed project and provides a breakdown of employees by department. The Miramar hotel project proposes 102 employees on-site at any given time and 18 off-site management and marketing positions. The topic of staffing was also addressed in the January 13, 2015 memorandum to the Montecito Planning Commission (Attachment-10) and in staff’s presentation to the Montecito Planning Commission. Staff research yielded an approximately 1:1 staff-to-guest ratio for “world class” hotels. As an example, some Four Seasons Hotels are considered “world-class” while others are considered “luxury” and may have a less than 1:1 staff-to-guest ratio. The Miramar Hotel will be a five-star luxury hotel with approximately one employee for every two guests (assuming two guests per room and 76% occupancy).

12. Through reference to their January 16, 2015 letter to the Montecito Planning Commission, the appellant states that the Montecito Water District must determine a “Base Allotment” for hotel water use (Silverstein appeal letter, “Grounds for Appeal,” page 1).

The 45 acre foot/year base allotment for the hotel was determined in 2008 based upon Montecito Water District calculations and continues to be in effect for the 2014 project (verbal communication, Tom Mosby, Montecito Water District General Manager, February 19, 2015). Therefore, a base allotment was determined for the project. In addition, Montecito Water District Manager Tom Mosby confirmed in testimony at the December 15, 2014 Montecito Planning Commission hearing and in a letter dated August 28, 2014 that the Montecito Water District will honor the 45 Acre Foot/Year (AFY) allocation given to the project. Furthermore, Mr. Mosby confirmed in testimony at the December 15, 2014 Montecito Planning Commission hearing that

the District considers the Miramar hotel an existing customer (based on the presence of 5 existing meters on-site).

13. Through reference to the January 16, 2015 Silverstein letter, the appellant incorporates a letter (Exhibit 1) from consulting traffic engineer Arthur Kassan that questions parking and circulation for the project (Silverstein appeal letter, “Grounds for Appeal,” page 1).

In response to the Arthur Kassan letter that is included as Exhibit 1 to the January 16, 2015 Silverstein letter (Attachment-7), the traffic consultant for the applicant, Associated Transportation Engineers (ATE) provided a response letter dated February 13, 2015 (Attachment-13) addressing each issue raised by Mr. Kassan. Public Works Transportation reviewed the ATE letter and concurs with the responses provided by ATE (verbal communication, Will Robertson, February 20, 2015).

CARUSO AFFILIATED

1. The appellant contends that the Montecito Planning Commission’s decision to modify condition no. 66 to reduce the maximum number of beach club memberships at occupancy from 200 to 100 is unsupported by the analysis presented to the Montecito Planning Commission by the appellant and by County staff (Caruso Affiliated appeal letter pages 1-2).

The Montecito Planning Commission (MPC) used appropriate discretion in its decision to approve the proposed project with modifications to the initial number of beach club memberships. Staff provides recommendations to the MPC for consideration, however, the MPC holds the discretionary authority to approve, deny, or modify the project as it deems appropriate. One of the main concerns raised by members of the public, and one of the main topics of discussion by the Montecito Planning Commission was the adequacy of parking for the proposed project. During the Montecito Planning Commission’s discussions regarding the effect of beach club memberships on parking availability, staff indicated that for every reduction in 100 beach club members, 30 parking spaces would be made available. Staff also indicated that it would be most appropriate to increase memberships over time rather than reduce memberships in the unexpected event of inadequate parking. The MPC’s decision to reduce initial beach club memberships from 200 to 100 was based upon a decision to make additional parking spaces available at the outset of the project, thereby providing a buffer of 30 additional parking spaces. Scaling-up the number of beach club memberships over time will allow the MPC to review the adequacy of hotel operations, including the adequacy of on-site parking, prior to increasing memberships. Reduction of the starting number of beach club memberships from 200 to 100 does not deprive the applicant of the potential for 300 total memberships (as specified in condition 66) upon further review by the MPC. Therefore, the condition change provides additional assurance of adequate site operations and was a reasonable exercise of the MPC’s discretion.

2. The appellant contends that the Montecito Planning Commission’s decision to modify condition no. 66 to consider granting the increase in beach club memberships at 36-42

months from occupancy or upon 6 months of stabilization at 76% occupancy is arbitrary (Caruso Affiliated appeal letter pages 2-3).

Staff recommended, and the Montecito Planning Commission (MPC) concurred, that beach club memberships should be considered for increase at 36-42 months (rather than the originally proposed 18-24 months) from occupancy or upon 6 months of stabilization at 76% occupancy. This recommendation was based upon the applicant's own testimony that operations would stabilize after three years and that "stabilization" would be considered 76% occupancy. By tying the increase in beach club memberships to stabilized hotel operations, the MPC will be able to determine if increased beach club memberships are appropriate based upon the full operations, including documented parking availability, rather than a reduced level of operations. As such, the MPC did not act arbitrarily in modifying condition no. 66.

- 3. The appellant contends that the requirement of condition 95 that excursion buses idle only in the main valet entrance is overly restrictive and requests that the condition be modified to allow buses to idle anywhere on the hotel property, but not off-site (Caruso Affiliated appeal letter page 3).**

The intent of condition 95 is to avoid excursion buses idling off-site, in areas of the site designated for parking or Fire Department access, in areas of the site needed for guest parking, or in the driveway area through the site used by residents at the oceanfront to access their homes. The condition change proposed by the appellant would only require that buses idle on-site and therefore would not address concerns regarding idling in the other areas described above. To provide for greater flexibility for the applicant, while also meeting the original intent of condition 95, staff has prepared the following modified condition for consideration by your Board:

95. Excursion Buses. Excursion Bus pick-up, drop-off and temporary parking shall ~~only occur in the main valet entrance to the hotel and shall not idle off-site~~ be prohibited in areas of the site that are required for Fire Department Access and in the on-site driveway area used by residents at the oceanfront to access their homes. Excursion buses shall only utilize parking lots that are not being used to capacity and that can safely accommodate the buses. Excursion buses shall not idle off-site. **Monitoring:** P&D staff shall respond to complaints and reported complaints shall be transmitted to the Montecito Planning Commission during annual compliance reporting.

- 4. The appellant contends that the Montecito Planning Commission's reduction in initial event attendees from 400 to 350 was arbitrary and unreasonable (Caruso Affiliated appeal letter pages 3-4).**

During the Montecito Planning Commission's discussions regarding the effect of event attendee count on parking availability, staff indicated that for every reduction in 100 event attendees, 35 parking spaces would be made available. Therefore, reduction of 50 event attendees during initial operations would provide an additional buffer of approximately 17 parking spaces. The MPC's decision to reduce initial event attendees from 400 to 350 was not arbitrary. Rather, it was based upon a decision to make additional parking spaces available at the outset of the project. Existing project conditions would allow approval of an increase in event attendees from

350 to 400 at 12-18 months from occupancy. Scaling-up of the number of event attendees over time will allow the MPC to review the adequacy of hotel operations, including parking operations, prior to increasing the number of event attendees. As such, the MPC's decision to reduce initial event attendees to 350 was a reasonable exercise of its discretion.

- 5. The appellant contends that the Montecito Planning Commission's reduction in initial beach club memberships to 100 and event attendees to 350 is inconsistent with policies of the Coastal Land Use Plan and the Coastal Zoning Ordinance because it will "serve to limit the number of persons who are able to partake in the coastal recreational opportunities offered by the Miramar hotel." (Caruso Affiliated appeal letter page 4).**

The reduction in beach club memberships and event attendees was applied by the Montecito Planning Commission (MPC) to provide an additional buffer of available parking spaces prior to increasing uses on-site. The requirements were applied, in large part, to ensure that hotel operations do not negatively impact public parking within the surrounding neighborhood which is heavily used for public beach access parking. Coastal policies require that development maintain and enhance public access to the coast. Specifically, with respect to parking and transportation, Coastal Act Policy 30252 states (in part) "*The location and amount of new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation.*" Therefore, the action of the MPC provides additional assurance that public beach parking will not be negatively impacted and is consistent with applicable coastal recreational policies.

Requested Project Changes:

Following the January 21, 2015 approval by the Montecito Planning Commission, on February 17, 2015, the applicant submitted a request for minor changes to the proposed project (revised project plans are included as Attachment-14). A memorandum from the applicant dated February 19, 2015 explaining the proposed changes is included as Attachment-15. The requested changes include: 1) relocation of the beach club from the east side of the pool area to the oceanfront in the previous location of the presidential suite, 2) creation of a new garden cottage building at the center of the property in an area currently covered by lawn, 3) reconfiguration of two garden cottages, and 4) interior changes to the oceanfront west building to replace two guestrooms with a larger luxury suite (intended to replace the loss of previously existing presidential suite). The changes result in a net decrease in overall square footage, no changes to the total number of guestrooms, and no changes to the architectural style, mass or height of any building. As revised, the project continues to be consistent with applicable ordinance and policy requirements and no changes to the Addendum are required to address the changes. Staff recommends approval of the proposed changes. The project description contained within the findings (Attachment-1) and conditions (Attachment-2) has been updated to reflect the requested changes.

Conclusion

In light of the whole of the record, staff recommends denial of both appeals and approval of the proposed project.

Fiscal and Facilities Impacts:

Budgeted: Yes

No appeal fees are required for appeals of projects that may be appealed to the Coastal Commission. The estimated staff cost to process the appeals is approximately \$9,438.00 (50 planner hours). This work is funded in the Planning and Development Permitting Budget Program on page 212 of the adopted 2014-2016 fiscal year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on April 14, 2015 hearing (using the enclosed labels). The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements using the attached labels. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

- Attachment 1: Findings for Approval
- Attachment 2: Conditions of Approval
- Attachment 3: Addendum for the Proposed Project
- Attachment 4: Previous Environmental Documents (08EIR-00000-00003, 00-ND-003 and the Addenda dated December 9, 2008 and March 11, 2011) available on the County's website at <http://www.sbcountyplanning.org/projects/07RVP-00009/index.cfm> and physically available at the Planning & Development offices located at 123 East Anapamu Street, Santa Barbara
- Attachment 5: Silverstein Law Firm Appeal Application, received January 27, 2015
- Attachment 6: Caruso Affiliated Appeal Application, received January 29, 2015
- Attachment 7: January 16, 2015 Silverstein Law Firm letter
- Attachment 8: November 21, 2014 Montecito Planning Commission Staff Report
- Attachment 9: December 11, 2014 Staff Memo to the Montecito Planning Commission
- Attachment 10: January 13, 2015 Staff Memo to the Montecito Planning Commission
- Attachment 11: January 16, 2015 Staff Memo to the Montecito Planning Commission
- Attachment 12: January 28, 2015 Montecito Planning Commission Action Letter
- Attachment 13: Associated Transportation Engineers Memorandum, dated February 13, 2015
- Attachment 14: Revised Project Plans, dated February 17, 2015
- Attachment-15: Caruso Affiliated Memorandum, dated February 19, 2015
- Attachment-16: Caruso Affiliated Memorandum Regarding Hearing Dates, dated February 19, 2015

Authored by:

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