EXHIBIT A

(To Statement of Grounds for Appeal, dated October 20, 2008)

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January 25, 2008

Michelle Gibbs
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County of Santa Barbara
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Via U.S. and Electronic Mail
mgibbs@co.santa-barbara.ca.us

Re: Miramar Beach Resort and Bungalows Project
Citizens for Responsible Development at Miramar Beach
Subsequent EIR Notice of Preparation, Scoping Comments

Dear Ms. Gibbs:

Coast Law Group LLP represents the interests of Citizens for Responsible Development at Miramar Beach with respect to the above-referenced project (the Caruso Plan) and the County's review of the same under the California Environmental Quality Act (CEQA). Citizens for Responsible Development is an association of Montecito residents and their supporters concerned with the scope and mass of the Caruso Plan and the numerous potentially significant environmental and community impacts that may result from the proposed development.

Thank you for the opportunity to provide input on the scope of the Subsequent EIR (SEIR). As a preliminary matter, we request that the County take the time to properly evaluate the project and ignore pressures to approve the project as quickly as possible. As the County is aware, CEQA mandates full disclosure and opportunity for meangingful public participation. Hence, any attempt to circumvent these responsibilities may result in a challenge to EIR certification and project approval.

With these preliminary considerations in mind, Citizens for Responsible Development respectfully submits the following comments on the scope of the SEIR:

1. Baseline Conditions

First, in attempting to measure project impacts against the Schrager Plan, the County has adopted an inappropriate baseline for conducting environmental review under CEQA. As the latest plans depict, the Caruso Plan constitutes a new and entirely different project and must be treated as such. Because the two projects are not comparable in any meaningful respect, the Schrager Plan cannot serve as an accurate benchmark for environmental review.

The Notice for the Scoping Meeting indicated "the focus of the environmental impact analysis for the Caruso Plan will be based upon a comparison with environmental impacts discussed in the original Negative Declaration prepared and adopted for the Schrager Plan." It then states that to comply with CEQA, the County intends to prepare an addendum to that Negative Declaration, coupled with a "discussion focused on the historic impact associated with proposed revisions, as well as the other required contents of a Subsequent EIR." While we can appreciate that the applicant does not wish to duplicate prior efforts, the proposed process does not make sense under CEQA. The Subsequent EIR must be a stand-alone document satisfying

all requirements of such an EIR. There is no reason to amend an outdated ND.

Based on the foregoing, the Caruso Plan must be evaluated based on the current state of the physical environment. As such, the scope of review must consider all impacts traditionally evaluated in the CEQA analysis, rather than just the discrete issues relating to historical resources. This is particularly true given that the Schrager Negative Declaration was adopted over seven years ago and its significance thresholds are now outdated. Because the Miramar has been closed for such an extensive period of time, an incremental analysis based on the Schrager Plan will not provide an accurate picture of the project's environmental consequences.

Moreover, given the massive scope of the proposed project, the Caruso Plan will result in numerous significant impacts even when measured against the Schrager Plan. In this regard, the vast differences between the two projects cannot be concealed or reconciled by simply comparing blanket statistics (as reflected in Table 3 of the Scoping Paper) without a full evaluation of the physical changes and resulting environmental consequences.

In short, the SEIR must provide a qualitative analysis of the differences between the two projects, as it is unlikely that mitigation measures specifically tailored to the Schrager Plan will continue to be relevant and effective under the proposed project.

2. Structural Development

The SEIR must address the massive size and scope of the renovation project, as a number of significant environmental impacts will result directly therefrom. For instance, under the Caruso Plan, construction of the main building alone will result in a net increase of over 30,000 square feet of development as compared to the Schrager Plan. Significant square footage increases will also result from expansion of the spa, the beach and tennis club, retail structures and the guestrooms. Indeed, the total new net floor area to be developed will more than triple the proposed area under the Schrager Plan (46,979 sf versus 169,293 sf). As detailed in the paragraphs that follow, the SEIR must address the potential impacts associated with this increase in development.

3. Hydrology

A number of significant hydrological concerns have not been adequately addressed to date and should be closely examined in the SEIR. For instance, a significant portion of the project site lies within Oak Creek's 100-year floodplain. The main building and associated parking structure (including the massive grading required for these improvements) will displace a large portion of the floodplain resulting in a net loss of storage space in the event of a significant flood event. In addition, the Scoping Paper states, "In order to bring the eastern portion of the site above the floodplain, the grades on the eastern portion of the site need to be raised." Alteration of the floodplain in this manner will adversely affect adjoining properties.

Of particular concern with respect to this issue, the project proponent has failed to substantively address this issue despite the County's legitimate inquiries regarding the subject.[1]

[1] In its July 6, 2007 letter to the applicant, the County identified six concerns relating to hydrological impacts and storm water treatment. In response, the applicant indicated that its updated drainage report would address these issues. However, despite numerous revisions to the drainage report,

The same applies to the County's concerns regarding the potential obstruction of the railroad culvert at Oak Creek. The SEIR must evaluate the hydrological effects the project will have on Oak Creek and neighboring properties.

In evaluating these impacts, careful consideration should be given to the following: (I) the increase in impervious surfaces resulting from the expanded scope of development; (ii) the impact San Ysidro Creek may have on future Oak Creek flooding; (iii) the impacts associated with directing runoff to the single inlet at the eastern edge of the site; (iv) project-related increases in Oak Creek flow volume and velocity; (v) related erosion concerns; (vi) the impacts associated with the earthen dam on the eastern portion of the site; (vii) the increased likelihood of flood damage to neighboring properties caused by retaining walls on the eastern portion of the site; and (viii) the increased risks associated with train derailment caused by project-related flooding.

Further, the SEIR must reconcile the vast discrepancies between the various Preliminary Drainage Reports (the December 1998, August 2007, November 2007 and December 2007 reports). These discrepancies include, but are not limited to, (I) the adequacy of the existing storm drain infrastructure on Miramar Avenue; (ii) the potential for storm drain overflows to reach Oak Creek; and (iii) pre and post-project peak runoff rates.

4. Water Quality

Given the County's relatively recently approved Storm Water Management Plan pursuant to federal Phase II NPDES regulations, the environmental review for the Caruso Plan must disclose significantly more detail than has typically been provided for projects considered by the County. Particularly in light of the extensive grading proposed, the SEIR must comprehensively address the Best Management Practices (BMP) to be employed for slope stabilization and general sedimentation management. Because the project abuts sensitive coastal resources (riparian and beach), extra care must be given to appropriately characterize and mitigate water quality impacts. Also, due to the significant increase in impervious surfaces proposed, post-construction BMPs as required by the Phase II regulations must be designed into the project and disclosed during environmental review. Further, long term post-construction BMPs must include enforceable performance criteria to satisfy CEQA's mitigation requirements.

5. Land Use & Community Character

As the County is aware, the Caruso Plan does not comply with applicable land use regulations, including the Montecito Community Plan, the Architectural Guidelines, the County's Coastal Zoning Ordinance and various Coastal Land Use Policies. For instance, as opposed to the Schrager Plan, the proposed project is entirely inconsistent with the "cottage type" tradition required by the Montecito Community Plan. *See* Policy LUC—1.6.

Similarly, the Caruso Plan violates the minimum height, parking and setback requirements set forth in the Coastal Zoning Ordinance.[2] Likewise, the project's main building

4 of the 6 hydrological issues have not been addressed at all.

[2] Notably, variances are not warranted in this case as they would simply promote the interests of the project proponent over those of the surrounding community. For instance, according to the applicant,

(with a height of 52.5 feet) violates not only the Coastal Zoning Ordinance's 38-foot height limitation, but the 8-foot exception already authorized under the code as well. With respect to parking, the negative consequences associated with the lack of required spaces will be shifted to adjoining property owners. Finally, the accuracy of the Floor Area Ratio (FAR) calculations are questionable and the methodology for establishing the .2463 figure should be reviewed.

Based on the foregoing, the SEIR must consider the project's impacts to land use and community character. As the County is aware, the above-referenced regulations establish significance thresholds in this regard. The evaluation should consider the propriety of including the Union Pacific Railroad parcel and the vacated portion of Miramar Avenue in the final FAR calculation. The SEIR should also evaluate the new seawall construction and oceanfront units for compliance with the Coastal Land Use Plan.

6. Grading

The proposed project will require approximately 36,000 cubic yards of cut, 46,000 cubic yards of fill, and 10,000 cubic yards of import - a dramatic increase in grading as compared with the Schrager Plan. As noted above, the SEIR must consider the potential impacts associated with engaging in such activities within the Oak Creek floodplain. It must also evaluate potentially significant impacts to groundwater and runoff. The increase in grading activity also raises concerns with respect to the site's liquefaction potential and a further need to evaluate the location of any underground storage tanks on-site.

Equally significant, importing 10,000 cubic yards of additional fill will cause significant short-term environmental impacts. In this regard, the SEIR must assess the traffic, noise and air quality impacts associated with the anticipated number of truck deliveries. The analysis should include the type of trucks to be used as well as the proposed routes (for instance, the deliveries will adversely affect levels of service on S. Jameson Lane).

7. Short-Term Construction

Given the significant increase in the project's size and scope, the SEIR should evaluate the potential for significant short-term construction impacts. For instance, 250 construction workers may be present at any one time during the construction process (as opposed to 125 under the Schrager Plan). The SEIR should evaluate potential noise and traffic impacts relating to this increased activity. Similarly, the Caruso Plan contemplates an 18 to 22-month construction period. Because this time-frame will cover two wet cycles, the SEIR must evaluate the potential short-term impacts associated with increased runoff and slope exposure.

8. Noise

Given the increased scope of the renovation under the Caruso Plan, the project may result in additional significant noise impacts. For instance, train-related noise may be amplified by the increased size and scope of the building profiles. Additional noise studies must be prepared to evaluate potential impacts to neighboring property owners. As a component of this

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the setback encroachments are necessary "to create as much open space within the interior of the project as possible." Because the Ordinance is intended to preserve and protect the community's character, the foregoing is not a sufficient justification to deviate from its restrictions.

analysis, the County should address the proposed methods and duration of demolition activities, including noise impacts to adjoining properties.

Similarly, technical studies must address the pile driving impacts associated with the property's liquefaction concerns. Given that pile driving is anticipated to last up to three months or more, and neighboring residents will be located "as close as 5 to 10 feet" from these activities, it is unlikely that the associated impacts can be mitigated to a less than significant level. The SEIR must also address the impact pile driving will have on biological resources.

9. Biological Resources

Because the hotel has not operated for the past seven years, the County should require additional technical studies to evaluate the current state of biological resources on the site and the adjacent Oak Creek riparian corridor. Such studies will be critical given that the Negative Declaration is predicated on 1999 report (which was prepared when the hotel was still operational).

As the County is aware, portions of the Oak Creek riparian corridor contain environmentally sensitive habitat area. The studies should evaluate the current viability of the property as a monarch overwintering site. Sycamores, coast live oak, Myoprum and eucalyptus trees may provide roost sites for this species.

The studies should also evaluate the presence of raptors and migratory passerine birds at the site. Given the increased prevalence of rodents on the Miramar property since hotel operations ceased, a significant raptor population may have developed in the area. The SEIR must also evaluate the loss of trees and habitat associated with the project, including the loss of seven coast live oaks.

10. Lighting

Under the Caruso Plan, the tennis courts and beach areas next to the board walk will be equipped with night lighting. Notably, the use of such lights was barred under the Schrager Plan in order to mitigate the adverse impacts associated therewith. As such, the SEIR must assess the impacts night lighting will have on neighboring residents to the southeast. In addition, given the close proximity of the tennis courts to the Oak Creek corridor and the sensitivity of beach wildlife, the SEIR must address impacts to biological resources.

11. Aesthetics & View Corridors

The increased scope and size of the proposed renovation will have significant impacts on aesthetics and existing view corridors. This applies not only to the breadth of the main building, but the mass of the other structures as well. For instance, the increased scope of the structures will adversely impact ocean views from the north as well as mountain views from the beach areas. Further, views from Highway 101 are considered a sensitive resource and should also be addressed in the SEIR. Finally, the County should evaluate aesthetic and visual impacts associated with the height of the tennis courts and associated netting enclosures.

12. Utilities

The Caruso Plan will result in significant net increases in solid waste production, water

usage, energy consumption and wastewater generation.[3] Notably, these impacts illustrate the impropriety of relying on the Schrager Plan to establish baseline conditions. Because the Miramar has not operated for an extensive period of time, the project will generate significant population growth with respect to utility needs. Thus, the SEIR must consider the full impact of the project's demands on existing facilities, infrastructure and capacity. For instance, it is unlikely that the 196-ton solid waste impact threshold adopted in the Negative Declaration remains accurate today given the capacity problems associated with the Tajiguas Landfiil.

With respect to water usage, the SEIR should include a discussion of the proposed abandonment and relocation of the water well and any potential impacts on the capacity of neighboring wells.

13. Parking and Traffic

The SEIR should closely evaluate the project's lack of parking. As noted above, the proposed plan fails to meet the minimum requirements prescribed by the Coastal Zoning Ordinance. However, the County should also reassess the accuracy of the parking calculation itself. For instance, the project only allocates five spaces for the 300 members associated with the Beach and Tennis Club. Similarly, even though 100 employees will be required for hotel operations, the parking analysis only accounts for 35 (thereby reducing the required number of spaces under Section 35-110).

With respect to public parking, the Negative Declaration indicates that 47 parking spaces were proposed on S. Jameson Lane under the Schrager Plan. Thus, the Scoping Paper's statement that the Caruso Plan will result in a net increase in public parking as compared to the Schrager Plan is inaccurate.

Indeed, the project will likely result in a net loss of available public parking. In evaluating this issue, the SEIR should address the abandonment of Miramar Avenue and the overwhelming likelihood that the "public" parking spaces on Eucalyptus Lane and South Jameson Lane will be used for hotel purposes.[4]

With respect to traffic, the SEIR should evaluate impacts to neighboring streets in light of current traffic conditions and the potential widening of Highway 101. Also, the SEIR should evaluate potential impacts on emergency access (including the inundation of South Jameson Lane).

14. Special Events

The scope and frequency of special events authorized under the Caruso Plan will result in significant impacts to beach use, parking and traffic. For instance, compared with the Schrager Plan, the number of weddings allowed on the beach per year will more than double

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[3] For instance, the scope of the Beach and Tennis Club is to be increased from 140 to 300 members. In addition, the project calls for a larger spa and increased retail facilities. The SEIR should confirm whether dry-cleaning services will be provided onsite.

[4] The Scoping Notice states, "All public spaces would be labeled for 'Public Use' to ensure exclusive public use and deter hotel guest use." It remains unclear how the proposed signage would accomplish this goal.

from 12 to 30. Likewise, the number of guests allowed and the amount of time allotted for each wedding will also double. The County should consider these impacts in the SEIR given the conclusion in the Negative Declaration that "Noise from weddings or parties on the beach potentially could adversely affect neighboring residences and should be limited to existing sizes, frequencies, and hours."

15. Seawall Improvements

The proposed project calls for various structural improvements to the existing seawall. While the precise scope of the improvements remains unidentified, the applicant has indicated that shotcrete will be installed to protect the new oceanfront units from wave and tidal forces. As the County is aware, the adverse effects of shoreline armoring (including sand depletion and the resulting loss of beach) are now well documented and established in the scientific community.

As such, the SEIR must address the potential impacts to beach use and recreation associated with the seawall fortifications. The analysis should include a discussion of short-term impacts relating to beach operations during construction.

16. Cultural Resources

As the County is aware, relevant data indicates the project site may contain significant cultural resources, including Chumash remains and artefacts. Given the massive grading associated with the Caruso Plan (again, 36,300 cy of cut; 46,100 cy of fill; 10,000 cy of import), including the dramatic net increase in grading as compared to the Schrager Plan, the SEIR must analyze the potential for significant cultural impacts associated with proposed development.

Thank you again for the opportunity to comment on the scope of the SEIR. As detailed above, the County must not limit its analysis to the discrete issues associated with historical resources. Moreover, the Schrager Plan constitutes an inappropriate baseline for purposes of the analysis. The appropriate technical studies should be prepared now to avoid future delays in the CEQA process.[5] Thank you for your time and consideration in reviewing the foregoing.

Sincerely,

COAST LAW GROUP LLP

Marco A. Gonzalez

CC: Clients

[5] To the extent draft studies have been prepared by the applicant (as with the Drainage Report), each version or revision must be attached to the SEIR to allow the public to fully assess the accuracy of the final conclusions.

EXHIBIT B

(To Statement of Grounds for Appeal, dated October 20, 2008)

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May 15, 2008

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Re: Miramar Beach Resort and Bungalows Project
Citizens for Responsible Development at Miramar Beach
Comments on Draft Subsequent Environmental Impact Report

Dear Mr. Ward:

Coast Law Group LLP represents the interests of Citizens for Responsible Development at Miramar Beach with respect to the County's review of the above-referenced project (the Caruso Plan) under the California Environmental Quality Act (CEQA). Thank you for the opportunity to participate in the review process. Because the issues raised in our scoping letter have not been adequately addressed, Citizens for Responsible Development remains concerned with the scope of the proposed project and the numerous potentially significant impacts associated therewith.

Based on our review of the Draft Subsequent Environmental Impact Report (Draft SEIR), accompanying "15164 Addendum" (Addendum), and inconsistent technical reports, it appears the integrity of the CEQA process has been compromised in favor of approving the project at the earliest possible stage. Indeed, because the applicant has repeatedly failed to address critical issues raised by the County itself, including deficiencies dating back to the County's original July 6, 2007 letter of incompleteness, there is no basis to conclude otherwise.

As the County is aware, CEQA mandates full disclosure to promote informed decision-making and an opportunity for meaningful public participation. The statute's fundamental goals have not been carried out in this case. With these issues in mind, Citizens for Responsible Development respectfully submits the following comments on the Draft SEIR and accompanying Addendum:

1. Improper Baseline Condition

As noted in our scoping comments, it is improper for the County to measure project impacts against the Schrager Plan because the Caruso Plan constitutes an entirely new and different project. In this regard, the County has adopted an inappropriate baseline for conducting environmental review. Morever, even if it were permissible to rely upon the Schrager Plan as a baseline condition, the County would

be limited to adopting the approved project as it could be physically built. The County has not done so in this case. The Draft SEIR states:

> The Approved Schrager Plan (99-DP-001/99-CP-002/00-CP-032) was amended twice . . . These amendments both resulted in reductions in the project and/or changes that resulted in lesser environmental impacts. Therefore, the baseline for the environmental impact analysis of the Caruso Plan is based on a comparison against the worst-case Approved Plan under the original case nos. 99-DP-001/99-CP-002/00-CP-032. (Draft SEIR, p. 32, fn. 1; Addendum, p. 6, fn. 1; emphasis added).

In adopting the "worst-case" scenario as the baseline condition, the County committed a prejudicial abuse of discretion. As a general rule, the lead agency must evaluate potential impacts based on the current state of the physical environment. Under limited circumstances, the agency may also consider previously approved structures that have not yet been developed. In doing so, however, the agency is constrained by the scope of the approved plans.

Here, by adopting the original Schrager Plan (rather than the less intrusive final plan), the County artificially inflated the baseline condition and distorted the project's incremental impacts. The Addendum is thus inherently flawed. Rather than accurately reflecting the project's environmental consequences, it disproportionately minimizes the scope of its impacts. The Addendum is legally inadequate in this regard.

2. Improper Segmentation of Environmental Review

Equally problematic, the County's preparation of the Addendum is procedurally improper as a matter of law. Under the CEQA Guidelines, an agency must prepare an SEIR when "[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects . . ." 14 CCR §15162(a)(1) (emphasis added); *see also* Pub. Res. Code §21166(a).

Because the County expressly concluded that the foregoing criteria has been satisfied with respect to historical resources, it cannot legally find that the project involves "only minor technical changes or additions" or that "none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR" have occurred. 14 CCR §15164(b) (emphasis added). Indeed, because the two findings are entirely contradictory and inconsistent, the County's decision to prepare the Addendum constitutes a prejudicial abuse of discretion.

The foregoing is further supported by the Section 15162(b) of the Guidelines, which provides as follows: "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency

shall prepare a subsequent EIR if required under subdivision (a). *Otherwise* the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation." (Emphasis added).

In other words, because project changes triggered the need for an SEIR under section 15162(a), there was no basis for the County to reach the addendum issue.[1] The Guidelines are clear in this regard: supplemental review is to be undertaken in a single document, the nature and scope of which depends on the significance of the new information and any impacts related thereto. And for obvious reasons, the statute does not permit lead agencies to fragment the analysis by preparing a lesser environmental document when the findings clearly dictate otherwise.

In this case, once the above thresholds were triggered, the County was obligated to prepare the SEIR as a stand alone document. Relevant here, SEIRs must meet the stringent content requirements applicable to all EIRs. 14 CCR §15160; Pub. Res. Code §21100. Because the Addendum fails to live up to those standards, the County has prejudiced the review process. The County thus committed a fundamental error in preparing and relying upon the Addendum. That error has resulted in numerous additional CEQA violations as more fully addressed in the following sections.

3. Deficient Project Description and Summary

The Draft SEIR must contain a summary of the proposed actions and their consequences. 14 CCR §15123(a). Here, the summary is deficient because the Draft SEIR fails to identify "[a]reas of controversy known to the lead agency including issues raised by agencies and the public." *Id.* at (b)(2).

For instance, the Draft SEIR fails to disclose a number of controversies relating to the following: (i) hydrological impacts (including the placement of 13 feet of fill in the floodplain and potential impacts on adjoining properties and the Oak Creek riparian corridor), (ii) land use and visual impacts (relating to the height and mass of the proposed structures and their compliance with applicable land use regulations such as the "cottage type" tradition required by the Montecito Community Plan), and (iii) drainage and water quality impacts (raised by Heal the Ocean and other members of the community).

To ensure the Draft SEIR carries out CEQA's fundamental purpose of full public disclosure and informed decision-making, these points of controversy must be identified up front, in the summary. Through the Addendum, the County improperly segregated

[1] The County's reliance on section 15160 of the Guidelines is misplaced. (SEIR, ES-1). EIR alternatives may only be used under that section if they are "consistent with the guidelines." As noted above, the County's preparation of the Addendum in this case directly violates section 15162.

the review process and circumvented this obligation.

The Draft SEIR's project description is similarly deficient. *See* 14 CCR §15124. For instance, the document fails to adequately disclose material aspects of the project, including the following: (i) the scope and nature of the proposed floodplain improvements; (ii) the total amount of fill to be placed in the floodplain (in cubic yards); (iii) the necessity of constructing a 13-foot stepped retaining wall within Oak Creek's historical drainage course; (iv) the extent to which the private road must be elevated out of the floodplain; (v) the nature and scope of required drainage improvements and methods,[2] including the proposed berm adjacent to the railroad tracks; and (vi) the scope and intensity of night lighting on the beach. (*See* Addendum, p. 6).

The project description is further deficient because it fails to list any related environmental review and consultation requirements mandated by federal, state or local law. *See* 14 CCR §15124(d). In this regard, the SEIR should reference the need for California Coastal Commission approval, the need for a Letter of Map Revision from the Federal Emergency Management Agency, and all other relevant permits and approvals.

Because the Draft SEIR does not contain an accurate project description, the decision-makers and the public cannot balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantages of terminating the proposal (i.e., the "no project" alternative) or adequately weigh other alternatives. The SEIR is therefore legally inadequate.

4. Failure to Disclose Disagreements among Experts

It is well established that an EIR should summarize the main points of disagreements among experts. 14 CCR §15151; *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 193; *Browning-Ferris Indus. v. City Council* (1986) 181 Cal.App.3d 852, 862; *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 413.

Here, the Draft SEIR is deficient because it fails to disclose disagreements among experts regarding the nature and scope of the project's hydrological impacts. As the County is aware, B&E Engineers (B&E) prepared and submitted numerous comments on this issue. (*See* January 14, 2008 letter from Ramy F. Awad. P.E.; additional comments are attached hereto). Those comments identify potentially significant impacts to adjoining properties:

[2] For instance, the Draft SEIR merely states, "Drainage for the property would be designed following the County-approved drainage study prepared for the proposed project." (Draft SEIR, p. 17).

> Due to the fact that [the] proposed fill will reduce the 100-year FEMA floodplain area, the water surface area elevation in a 100-year storm may rise and its velocity may increase, causing potential flooding or erosion on adjacent properties to the east and south as will be discussed further in this review. (*Id.* at p. 3).

B&E also identified a number of other deficiencies relating to the various Penfield & Smith (P&S) Preliminary Drainage Reports. Specifically, B&E found that P&S improperly used Hydro-Cad programs to calculate water surface elevations and velocities, failed to conduct a continuous analysis of Oak Creek using HEC-RAS modeling, failed to provide accurate cross-sections of the pre and post project condition, and so on. Moreover, the engineering manager of the County's Flood Control Department expressly corroborated a number of B&E's findings and concerns. (*See* January 31, 2008 email from Jon Frye, PE, CFM re: "Miramar flood issue").

On March 14, 2008, P&S reiterated its disagreement with the foregoing, defending its determination that the project will not adversely affect Oak Creek's water surface elevations or flow rates, and will not result in significant impacts to downstream and adjoining properties. (March 14, 2008 P&S Memorandum, p. 1). P&S also continued to defend its use of the Hyrdo-Cad programs. (*Id.* at p 11).

Because the Draft SEIR fails to disclose the foregoing disagreements among experts, including the concerns of the County itself, an informed decision cannot be made as to whether the floodplain improvements are warranted or appropriate. The Draft SEIR is therefore legally deficient.

5. Significant Environmental Effects

CEQA mandates that all EIRs consider the significant environmental effects of the project at issue, including substantial, or potentially substantial, adverse changes in any of the physical conditions within the area affected by the project. 14 CCR §15126(a); §15382. Particularly relevant here, due to project changes and the expansive scope of the Caruso Plan, the proposed project will result in a number of potentially significant impacts that would not have arisen under the Schrager Plan. Because those impacts have not yet undergone CEQA review, they must be fully analyzed in the SEIR using the County's current Environmental Thresholds and Guidelines Manual. As reflected in the following sections, the County has not satisfied its obligation to perform a thorough and reasoned analysis of these issues.

6. Drainage and Water Quality Impacts

The Draft SEIR and Addendum fail to adequately analyze the project's drainage and water quality impacts and rely on unfounded assumptions in the various P&S Preliminary Drainage Reports regarding the efficacy of on-site drainage improvements.

In this regard, the SEIR must address and evaluate the project's alteration of existing drainage patterns and redirection of flows to Oak Creek.

The August, 2007 version of the P&S report claimed that the post-project flow rate to Oak Creek will be less than the pre-project condition. The report further assumed that existing drainage infrastructure on Miramar Avenue "is non-functioning since it's [*sic*] flow capacity is very small and it's [*sic*] grated inlets are likely to be plugged during the design (100-year) storm." (August 13, 2007, P&S Report, p. 3).

However, the November, 2007 version of the P&S report inexplicably assumed the opposite - that the existing infrastructure on Miramar Avenue "is functioning." (November 9, 2007, P&S Report, p. 4; emphasis added). The Report further indicated that an "underground detention basin will be constructed underneath the proposed tennis courts to reduce post-project storm flow tributary to Oak Creek to less than the pre-project peak flowrate." (*Id.* at p. 4; emphasis added). Indeed, the report's Hydrologic and Water Quality Analysis concluded that such a result could only be achieved if detention methods were implemented. The Report states:

> Detention of flows to Oak Creek will be necessary to reduce post-project flows to pre-project levels. (*Id.* at Appendix B, p. 5).
>
> On-site detention will be required to reduce the peak flow rate to Oak Creek to less than the pre-project condition. (*Id.* at Appendix B, p. 7).

After reviewing the November, 2007 report, Staff informed the applicant that the County Flood Control District does not permit the use of underground detention basins. In response, on December 7, 2007, P&S issued yet another version of the Preliminary Drainage Report, which attempted to delete all references to the need for flow detention. A few days later, P&S revised the report yet again because they failed to delete all such references. (*See* "Minor Revision", dated December 12, 2007).

The December report and Minor Revision continue to to claim that post-project flows to Oak Creek will be sufficiently reduced. However, rather than attempting to explain how that will be accomplished without the use of detention methods, the reports now simply state, "The exact storm drain system and design parameters will be part of the final design." (*See* p. 4, both reports).

The applicant sought to implement drainage detention because the project would increase runoff flows to Oak Creek. After learning such improvements are impermissible, excess flows were conveniently "redirected" to the beach without any explanation as to the manner in which that would be accomplished. Further, the pre-development peak runoff figures were revised (showing a decrease in flows to Oak Creek and a concomitant increase in flows to the beach). The net result is that pre and post-project discharges to the beach and Oak Creek are now conveniently similar and

show no adverse impacts.

Moreover, the findings of the December P&S reports are entirely predicated on assumptions. In this regard, the reports continue to assume that the Miramar Avenue improvements are functioning and also now assume that "a portion of the site storm drainage is directed via direct storm drain connection to the existing catchbasin in the Union Pacific Railroad (21" RCP storm drain)." (*Id.* at p. 4). However, as the County has noted, the outlet to the Miramar Avenue system "is buried with sand." (List of Outstanding Items, revised March 10, 2008, item 2b).

Given the current stage of the review process, this lack of understanding of existing drainage is entirely unacceptable under the statute. Over six months ago, the County expressly requested that the applicant provide "a watershed study that shows the existing drainage on the site and where the drainage is directed. The study should graphically depict the overall existing and proposed direction of flow and whether there is any change." (July 6, 2007 Determination of Incompleteness, p. 5). Moreover, in its December 28, 1998 report, P&S itself recommended that the Miramar Avenue system be smoke tested. (*See* p. 3).

Notwithstanding the blatant inconsistencies in the P&S reports, the extent of the foregoing uncertainties, and the County's failure to evaluate additional discharges relating to the need for dewatering pumps, the Addendum concludes "[a]dopted mitigation would ensure Flood Control review and approval of a final drainage plan resulting in less than significant impacts similar to the approved plan." (Addendum, p. 45). For the above-stated reasons, this conclusion is entirely unsupported and is subject to challenge as an abuse of discretion. Given the significance of the foregoing issues, the Final SEIR must evaluate all drainage and water quality impacts under the County's current Threshold Guidelines.

7. Hydrological Impacts

The Draft SEIR and Addendum fail to adequately analyze potential flood impacts to neighboring properties and the Oak Creek riparian corridor. In addition to the technical comments set forth in the attached correspondence from expert Ramy Awad of B&E Engineers, dated May 8, 2008, Citizens for Responsible Development submits the following comments on this issue:

At a minimum, EIRs must provide a brief explanation indicating the reasons for determining that a project's environmental effects are not significant. Pub. Res. Code §21100(c). Here, the County's discussion of hydrological impacts is legally deficient because it simply repeats the conclusions of the P&S reports without providing any analysis. For instance, the Addendum states:

> In the post-project condition, for flows less than or equal to the 100-year

> event in Oak Creek, there will be *no increase in flow rate* compared to the pre-project condition for adjacent property due to the Miramar Project. (Addendum, p. 46; italics in original).

After repeating similar conclusions with respect to water surface elevation and flow velocity, the Addendum merely states, "In sum, impacts associated with proposed project development in the floodplain would be less than significant." (*Id.*). In doing so, the Addendum fails to satisfy CEQA's informational purpose because it fails to identify how the placement of 13 feet of fill within the floodplain will not affect downstream properties during a significant flood event.

Further, because the various P&S reports have not addressed the specific concerns raised by the engineering manager of the County Flood Control District, there is no basis for the County to conclude that project impacts will be less than significant. On January 31, 2008, the engineering manager identified a number of defects in the P&S analysis. In doing so, he indicated that "HEC-RAS cross-sections need to extend far enough upstream and downstream to capture the influence of the Miramar project." (*See* January 31, 2008 email from Jon Frye, PE, CFM re: "Miramar flood issue").

Because this has not been done, the implications of developing within the floodplain are not yet fully understood. The engineering manager specifically noted this concern as follows:

> Mention was made of speaking to what mitigations would be required if pre- and post-project results show an adverse impact. That's too speculative, not knowing the exact nature of what those adverse impacts might be. (*Id.*; emphasis added).

To comply with CEQA's mandates of full disclosure and meaningful public participation, the SEIR must explain the manner in which the engineering manager's concerns have been resolved.[3]

8. Land Use and Visual Impacts

The Draft SEIR and Addendum fail to adequately analyze land use and visual impacts, including the extensive "modifications" that will be required due to the project's overall mass and scope. Even though the County expressly adopted the Schrager Plan as its baseline condition, it has made no attempt to engage in a qualitative comparison of the two projects. Indeed, neither the Draft SEIR nor the Addendum define the

[3] The SEIR should also evaluate the potential for inundation of the Union Pacific Railroad (UPR) lines during flood events, potential adverse impacts relating to the adjacent earthen berm, and the extent to which the UPR has been contacted and/or has submitted comments on the proposed project.

physical parameters of any structures or improvements that were previously approved under the Schrager Plan. As such, the proposed project's incremental impacts remain unknown. And to the extent the County has relied on the original Schrager Plan as represented, the project's actual impacts have been understated as discussed above.

Irrespective of these preliminary issues, the Draft SEIR and Addendum clearly fail to evaluate a number of potentially significant impacts. These impacts include the following.

(i) *Structural Height and Mass*

The height of the Main Building is 49 feet and will therefore violate both the 35-foot height limitation prescribed by the C-V zone and the additional 8-foot exception set forth in the Coastal Zoning Ordinance. (Draft SEIR, p. 16). Similarly, the Beach & Tennis Club will violate the Ordinance's 16-foot height restriction by a substantial margin (as much as 10 feet). As such, the project will require a number of height variances that were not at issue under the Schrager Plan (*Id.*).

The Caruso Plan thus conflicts with a number of land use restrictions intended to preserve community character and reduce viewshed impingement. As such, the project will result in significant land use and visual impacts.

Although the Draft SEIR briefly references the foregoing violations, the "analysis" in the Addendum ignores them altogether. For instance, the Addendum states, "Impacts associated with grading and the heights of buildings are discussed in the Aesthetic/Visual Resource and Geologic Processes Sections of this addendum." (Addendum, p. 27). However, both of those sections are devoid of any relevant analysis addressing the Main Building or Beach & Tennis Club.

Moreover, because the height variances were not required under the Schrager Plan, the County must justify the extent to which previously adopted mitigation measures remain relevant and applicable. Because the violations have not been sufficiently evaluated, there is no basis to conclude that mitigation measures would render the impacts less than significant. (Addendum, p. 27).[4]

(ii) *Cottage Type Hotel*

The Caruso Plan is not consistent with the "Cottage Type Hotel" tradition set forth in the Montecito Community Plan (MCP). In reviewing the project against Policy LUC-M-1.6, the County failed to evaluate whether the Caruso Plan is consistent with

[4] The County should also explain the basis for applying the exception set forth in the Coastal Zoning Ordinance (i.e. the extent to which additional height is necessary "to provide for architectural character"). (*See* Santa Barbara County Code section 35-127(A)(1)(a)(3)).

the Montecito Architectural Guidelines, which more specifically define the term "Cottage Type Hotel." Under the Guidleines, "[t]wo thirds of any new or reconstructed buildings which are guest rooms shall be limited to sixteen (16) feet in height." Section V.B.3.a(2), p. 41 (emphasis added).

The Draft SEIR identifies 24 new guest room structures. (Draft SEIR, Table 2-1, p. 11). Of those structures, only one is below the 16-foot height restriction (*See* "Bungalow 1" at 15.7 feet). As such, the project is not consistent with the cottage style tradition and will result in significant land use impacts. And as with the structures discussed in the preceding section, the Addendum fails to adequately address this issue.[5]

(iii) *Neighborhood Compatibility*

The Architectural Guidelines provide: "Visitor resort facilities shall be compatible in mass, bulk, scale and design with the residential character of the surrounding neighborhoods." Section V.B.3.b, p. 41 (emphasis added); *see also* Section V.B.1 (such facilities should be "compatible with and subordinate to the recreational setting") . Neither the Draft SEIR nor the Addendum adequately describe the surrounding neighborhood or attempt to evaluate whether the proposed project complies with the Guidelines. The Final SEIR must provide a reasoned analysis addressing this issue.

(iv) *Setback Violations*

The Draft SEIR and Addendum fail to provide a sufficient comparative analysis with respect to setback variances required under the Schrager and Caruso Plans. Again, the differences between the plans cannot be meaningfully analyzed by comparing blanket figures in a table. For instance, the Addendum describes the Schrager setbacks as follows: "Encroachments into all setbacks except side yard setbacks." Because no further discussion is provided, the County has failed to provide any meaningful analysis on this issue. The Draft SEIR and Addenda are therefore legally defective.

(v) *Miscellaneous* - Citizens for Responsible Development further requests that the County address the following issues in the Final SEIR: (i) potential impacts relating to "night lighting of the beach 60 feet from the boardwalk" (*see* Addendum, p. 6; this issue is not evaluated in the Nighttime Lighting section); (ii) the impacts of night lighting the tennis courts on neighboring properties; (iii) whether the additional seven guestrooms considered under the "worst-case" scenario have been calculated in the

[5] The Draft SEIR indicates that the project consists of 209 rooms, even though only 202 rooms are accounted for in Table 2-1. (Draft SEIR, p. 11). The Draft EIR further states that the seven additional rooms would not affect building footprints but fails to address whether building heights will be affected. The County must address this issue in the Final SEIR.

Floor Area Ratio analysis (i.e. 209 units versus 202 units); (iv) the basis for applying different parking ratios to the Beach & Tennis Club under the Schrager and Caruso Plans (*see* Addendum, p. 40), and (v) potential adverse aesthetic impacts relating to the 13-foot stepped retaining wall located within the floodplain.

9. Noise Impacts

With respect to short-term construction impacts, the Draft SEIR and Addendum fail to adequately describe the proximity of the proposed pile-driving activities to adjoining residences, the number of affected households, whether the activities would take place as a single event or in phases, and the total time period over which the impacts would occur. Given these outstanding uncertainties and the severity of the impacts, the documents fail to serve their informational purpose under the statute.

Further, it is improper for agencies to rely on mitigation measures of unknown efficacy in concluding that significant impacts will be mitigated to a less than significant level. In this regard, the County's reliance on off-site accommodation measures is entirely misplaced. There is no basis to conclude that each affected resident will be able to relocate during the same time period or that 14 days will provide sufficient notice.

Moreover, in devising mitigation measures, "a public agency may exercise only those express or implied powers provided by law other than [CEQA]." Pub. Res. Code §21004; 1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 1st ed. 2005) § 17.18, pp. 820–821. Here, the County has no authority to oust residents from their homes in favor of private development. Based on the foregoing, the County's conclusion that noise impacts would be mitigated to a level less than significant constitutes a prejudicial abuse of discretion.[6]

10. Groundwater Impacts

With respect to the proposed new well location, the County must fully disclose and evaluate the results of the well study and pump test when available. To the extent the test or any concurrent monitoring discloses additional significant impacts to neighboring wells or otherwise, the County may be required to recirculate the SEIR for additional public review.

In addition, the Draft SEIR and Addendum fail to address potentially significant impacts relating to the extensive grading activities necessitated by the project

[6] The County's analysis is further deficient because it fails to discuss the significant impacts that would result from implementing the proposed mitigation measure. *See Save Our Peninsula Committee v. Monterey County Bd. Of Supervisors* (2001) 87 Cal.App. 4th 99, 130.

(approximately 36,000 cubic yards of cut, 46,000 cubic yards of fill, and 10,000 cubic yards of import). In this regard, the County must disclose the potential for groundwater displacement and contamination that may result from these activities. The County must also disclose whether development of the parking facility and associated structures will impact the underlying aquifer. This issue was expressly raised in the County's March 10, 2008 "List of Outstanding Items" but has not been discussed in the Draft SEIR or the Addendum.

11. Alternatives Analysis

One of the critical functions of an EIR "is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197. *See also Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564 (holding that the mitigation and alternatives sections are the core of an EIR).

The alternatives discussion must focus on alternatives capable of eliminating significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733. Further, the discussion must be "meaningful" and must "contain analysis sufficient to allow informed decision making." *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 403-404.

"[Where] alternatives are rejected, an EIR must explain why each suggested alternative either does not satisfy the goals of the proposed project, does not offer substantial environmental advantages or cannot be accomplished." *San Joaquin Raptor/Wildife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 735-737 (italics in original). An EIR is legally deficient if it lacks concrete information or analysis. *Id.* at 735.

As noted throughout these comments, the Caruso Plan will result in a number of significant environmental impacts in addition to those relating to historical resources. By failing to adequately evaluate those additional impacts (and by segregating the discussion in the Addendum), the County improperly limited the scope of the discussion to historical resources. In doing so, the County circumvented its obligation to provide a meaningful alternatives analysis. Because the Draft SEIR does not identify project alternatives that could feasibly avoid the above-referenced noise impacts, land use impacts, and so on, the document is legally inadequate.

12. Cumulative Impacts

The Draft SEIR fails to sufficiently evaluate the proposed project's cumulative impacts. *See* 14 CCR §15130. Other than the brief reference to the Caltrans project in

the Addendum's traffic component, the County has not identified any past, present, or probable future projects that may affect the analysis. This issue is of particular importance given the amount of time that has elapsed since the Schrager Plan was approved. The Draft SEIR is materially deficient in this respect.

Thank you again for the opportunity to comment on the Draft SEIR and Addendum. Based on our review of the record, the County has not afforded sufficient weight to the integrity of the review process. As detailed above, in attempting to accommodate the applicant's demands and approve the project as quickly as possible, the County has committed a number of fundamental CEQA violations. As a result of those deficiencies, the Draft SEIR and Addendum fail to provide an accurate picture of the project's environmental consequences. Thank you for your time in considering the foregoing.

Sincerely,

COAST LAW GROUP LLP

Ross M. Campbell

CC: Client
enclosures

B & E ENGINEERS

an NJS Company

CIVIL ENGINEERING **SURVEYING** **LAND PLANNING**

24 W. ST. JOSEPH STREET
ARCADIA, CA 91007

TEL 626-446-4449
FAX 626-446-6566

May 12, 2008

Ms. Alicia Bartley
Gains & Stacey
16633 Ventura Blvd
Suite 1220
Encino, CA 91436

Subject: Comments on Subsequent EIR for the Miramar Hotel Project
JN 2007439- G

Dear Ms. Bartley:

B&E Engineers has reviewed the Draft Subsequent EIR (SEIR) and Addendum Report dated April 1, 2008 for the Miramar Hotel Project and has the following comments / questions and request for additional clarifications.

Neither above subsequent report nor the addendum report to the EIR has addressed the potential drainage impacts of placing fill within the flood plain areas of Oak Creek, nor did they address the increased potential of flooding of downstream properties.

At your request, B&E Engineers had reviewed and provided comments on Penfield & Smith (P&S) drainage reports dated December 7, 2007 and March 7, 2008. I have attached copies of these reviews dated 10/8/07, 1/14/08 and 4/7/08 and also a copy of our 4/27/08 email to Ms. Jean Harfenist which outlined our concerns regarding potential project's drainage impacts.

As stated in our reviews, P&S drainage reports did not provide suffecient information or continuous analysis of the water surface elevation within Oak Creek for the pre and post development conditions of the proposed Miramar Hotel project.

The December 7, 2007 report included hydraulic calculations from south of the freeway to the beach for both pre and post development conditions, but did not include any location maps or cross sections.

The input data in the hydraulic calculations in above December 7, 2007 report did not appear to be accurate as they did not match the existing topography and did not match the cross sections in the March 2008 report.

The March 7, 2008 report included only partial hydraulic calculations and cross sections.

In the pre-development conditions, above March 7, 2008 report included cross sections only from the beach to north of the railroad tracks, but the cross sections were incomplete and did not show the water surface elevations and the hydraulic calculations were only limited to the area within the railroad right-of-way.

In the post-development conditions, the March 7, 2008 report included cross sections and hydraulic calculations only from the railroad to south of the freeway.

Both hydraulic calculations for the pre and post development conditions and the cross sections were incomplete and were for different locations.

The hydraulic calculations and cross sections must be prepared for the same locations for both pre and post development in order to determine any project impacts.

As stated above, the input data in the hydraulic calculations in the December 2007 report did not appear to be accurate as they did not match the existing topography or the cross sections in the March 2008 report.

On the other hand, the cross sections in the March 7, 2008 report in the vicinity of the 2 existing houses, downstream of the UPRR tracks do not appear to be accurate as they do not match the existing topography.

As previously stated in our reviews, the proposed project introduces fill within UPRR right-of-way. It is unclear whether or not the project had obtained a permit or an easement from the UPRR to place the fill within their right-of-way.

If a permit or easement has not yet been obtained, and if UPRR does not allow placing fill within their right-of-way, then the proposed project may have to be re-designed and the re-design would not have been included in the SEIR.

The Montecito Community Plan provides policies and development standards to address flooding concerns and to minimize potential flood hazard and to ensure that the public and private projects have adequate drainage. Further analysis regarding any potential flooding from the proposed development should be discussed.

It is uncertain whether or not an addendum to the previously approved EIR for the Miramar project satisfies Section 15164 of The California Environmental Quality Act

(CEQA). This section allows EIR addendums to be prepared only for minor technical changes which do not create new significant impacts.

The proposed project introduces an increase in earthwork quantities (46,000 CY fill, 36,000 CY cut and 10,000 CY import) compared to the approved project (10,000 CY cut, 6,000 CY fill and 4,000 CY export).

One may conclude there is a substantial change between the approved project and the proposed project with regards to project design, drainage and grading.

On the other hand, one may not conclude there is no potential impact of placing fill in the flood plain areas nor conclude there is no increased potential of flooding on downstream properties.

At this time, we recommend further analysis of the proposed project to be conducted to address the drainage and flooding concerns raised and to determine any potential impacts and to assure the adjacent property owners of the safety of their residences and to propose necessary mitigation measures, if needed.

Please feel free to contact me if you have any questions or to discuss this letter.

Sincerely,

Ramy F Awad

Ramy F. Awad, P.E.
Vice President

Attachments:

- B&E Engineers email dated April 27, 2008
- B&E Engineers Letter dated April 7, 2008
- B&E Engineers Letter dated January 14, 2008
- B&E Engineers Letter dated October 8, 2007

Ramy F. Awad

From: Ramy F. Awad [rawad@beeng.com]
Sent: Sunday, April 27, 2008 6:26 PM
To: Stan Harfenist; Alicia B. Bartley
Cc: rawad@beeng.com
Subject: HEC-RAS

Attachments: Refrences.pdf

Refrences.pdf

Hi Jean- Following our telephone conversation last week, I prepared this example to clarify how the HEC-RAS program works and what results should be expected from the program. Please refer to attached diagram:

- Figure I show a typical cross section of existing ground that includes a channel, a regulatory floodway (50-foot setback from the channel) and a flood plain (water surface elevation at FEMA 100-year flow). It is generally allowed to construct within the flood plain, but not within the regulatory floodway.

- During a given storm, water surface elevation would vary depending on the flow amount. Figure I show three water surface elevations. Water surface elevation 1 is contained within the channel, water surface elevation 2 is contained within the regulatory floodway and water surface elevation 3 is contained within the flood plain.

- Figure II shows a proposed development within the flood plain area. This development should not have any effects on the water surface elevations 1 and 2, but probably, depending on the size of the development, would have an effect on water surface elevation 3. This is due to the fact that the development may reduce the area of flow so the water surface elevation may rise from 3 to 3b. Depending on the specific conditions of a cross section, the water velocity may also increase or a combination of both would occur.

- It must be noted that the cross sections should extend far enough, both upstream and downstream of the development and also should extend far enough in both left and right directions in order for the HEC-RAS program to provide accurate results.

- If the cross section is not complete (left and right), the program will assume that there are vertical walls at the end points of the cross sections as shown on figure III which might provide inaccurate results.

- To get a complete analysis of any project, first the cross sections of the existing (pre-development) conditions should be plotted and inputted in the HEC-RAS program which would produce a run showing the water surface elevation and water velocity. Then the same cross sections should be modified to reflect the proposed (post-development) conditions. Finally a comparison between the pre and post development conditions should be done to determine whether such project has any impacts and propose mitigations if deemed necessary.

As mentioned in our January 14, 2008 report, HEC-RAS program was developed by the US Army Corps of Engineers and is the most acceptable and commonly used program in calculating water surface elevation of any watercourse. The HEC-RAS has the capability of providing accurate results without support from any other programs and should be used in the Miramar project without the Hydro-Cad program.

The same was also stated in Jon Frye e-mail to Michelle Gibbs dated January 31, 2008. I have attached a copy of his e-mail for your reference.

The difficulties we are having in reviewing P&S reports are basically related to lack of information.

The P&S December 7, 2007 report included HEC-RAS runs from south of the freeway to the beach for both pre and post development conditions, but provided no location maps or cross sections.

The P&S March 7, 2008 report included partial HEC-RAS runs and cross sections (please refer to attached section location map) as follows:

In the pre-development conditions the report included cross sections only from the beach to north of the railroad tracks (from RS 1.4 to RS 271.8). The cross sections are incomplete as they did not show the water surface elevations and the HEC-RAS run was only limited to the area within the railroad (from RS 217 to RS 237.5).

In the post-development conditions, the report included cross sections and HEC-RAS run only from the railroad to south of the freeway (from RS 254 to RS 714).

As you can see, both pre and post runs and cross sections are incomplete and are for different locations. The report should include cross sections and HEC-RAS runs for the same locations for both pre and post development in order to determine any project impacts as indicated in bullet point number 6 above.

It must be noted that the March 7, 2008 report discussed the possibility of a potential overflow from San Ysidro Creek to Oak Canyon in case both watersheds experience a 100-year storm at the same time. The report estimates, in such event, the 1800 CFS FEMA flow in Oak Canyon would increase to 3000 CFS which would be equivalent to a 500-year storm. The cross sections in the vicinity of the existing Montecito development for the post-development conditions show the outer wall of the development would act as a channel wall in order to contain such 500-year storm.

We checked the accuracy of some of the plotted cross sections in the March 7, 2008 report (from RS 489.8 to RS 714.8) against the existing topography and compared them to the input data in the HEC-RAS run of the December 7, 2007 report.

The input data in the HEC-RAS run in the December 2007 report do not appear to be accurate as they do not match the existing topography or the cross sections in the March 2008 report. We believe the cross sections in the March 7, 2008 report are more accurate.

On the other hand, the cross sections in the March 7, 2008 report (from RS 51.8 to RS 171) do not appear to be accurate as they do not match the existing topography.

Above cross sections (from RS 51.8 to RS 171) are critical as they are for the area between the 2 existing houses on either side of the channel.

P&S report states that the 1800 CFS FEMA flow will be conveyed to the ocean in this area via "channel passage area" and "overland flows". The report defines channel passage area to be "generally the area between the two houses that are located adjacent to the existing channel" and it defines the overland flow as" shallow surface flows outside the channel passage area".

One might ask what is meant by above definitions . . . does the channel passage area mean the area from one-house-wall to the channel to the second-house-wall, or ask what area and elevations would the overland flows reach when compared to the finished floors of the existing 2 houses.

Detailed cross sections in this area are needed to provide a better understanding of the limits of the "channel passage area" and "overland flows".

Also, same cross sections show a notation of "ineffective area" which typically refers to areas of the cross sections where water will pond. The detailed cross sections in this area should also clarify the limits of this ineffective area.

Hopefully this email clarifies your questions about the HEC-RAS, and gives you a better idea about the drainage concerns we have and the clarifications we still need from P&S reports.

Please call me if you have any further questions or to discuss. I am also reviewing the EIR and will send you my comments within the next couple of weeks.
Regards,

Ramy

Ramy F. Awad, P.E.| Vice President| B&E Engineers
24 West Saint Joseph Street, Arcadia, CA 91007| Tel (626) 446-4449| Fax (626) 446-6566| www.beeng.com

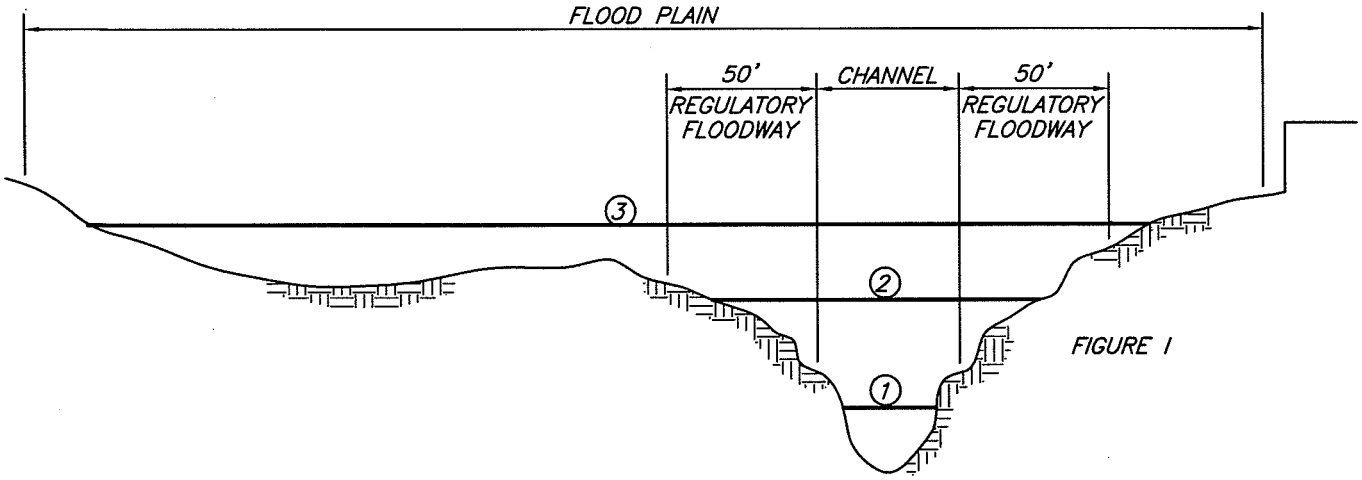


FIGURE I

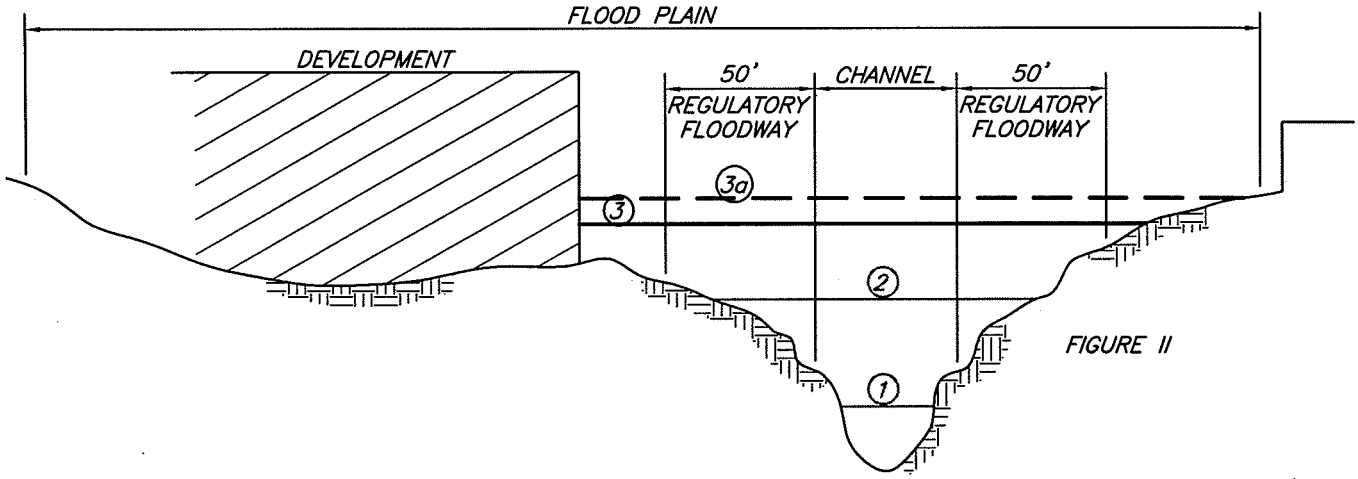


FIGURE II

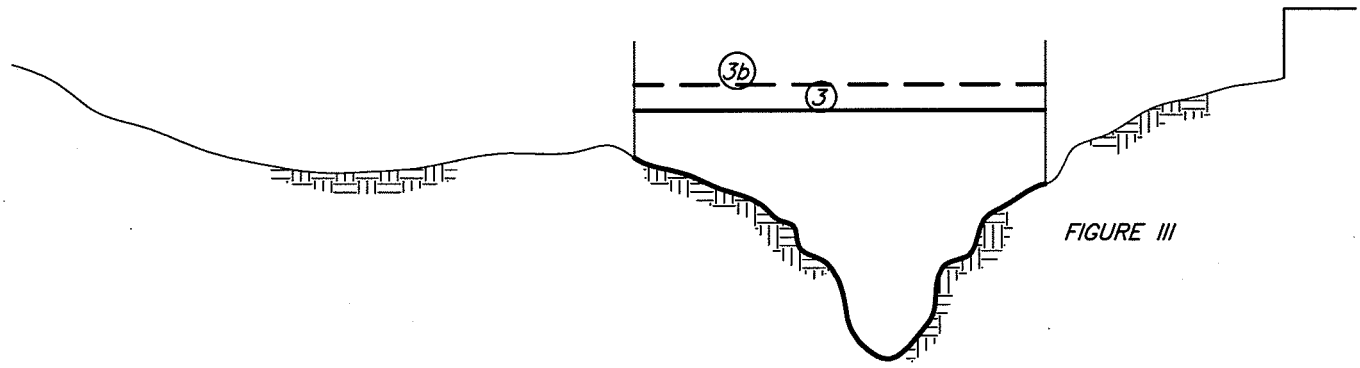


FIGURE III

From: Frye, Jon
Sent: Thu 1/31/2008 9:50 AM
To: Gibbs, Michelle
Cc: Ward, Dave; Black, Dianne; Almy, Anne; Fayram, Tom; Constantine, Candice; Parker, Mike
Subject: RE: Miramar flood issue

Michelle,

I understand the applicant has requested direction on how to proceed with the technical analysis of the project's potential impacts to the special flood hazard area.

- FIRM shows Oak, San Ysidro and Romero Creeks' special flood hazard areas combined;
- FIRM shows flow over the UPRR tracks;
- Water surface elevation (20) contour shows flow towards Oak Creek from San Ysidro Creek;
- Effective FEMA San Ysidro Creek HEC-2 model shows right over-bank (looking downstream) flows of significant amounts leaving the San Ysidro Creek channel in the direction of Oak Creek;
- Flows were observed heading to Oak Creek from San Ysidro Creek in 1995. These flows were unofficially estimated to be on the order of a 25-year return period;
- Flows were reportedly observed heading to Oak Creek from San Ysidro Creek in 1998 (per Penfield & Smith Preliminary Drainage Report Appendix D, page 2, December 7, 2007);
- The question is how does loss of over-bank storage (Miramar project) affect the other areas of the special flood hazard area?
- In attempting to address that question, the P&S Report of December 7 does not take the above into consideration therefore does not represent acceptable evaluation;
- HEC software should be used for all hydrology/hydraulics. Hydrocadd SBUH not applicable.
- HEC-RAS unsteady flow analysis options are described in software documentation that specifically address loss of over-bank storage.
- Unsteady flow analysis needs hydrographs.
- HEC-HMS should be used to develop watershed hydrograph(s) with a peak equal to the 25- and 100-yr flow for use in HEC-RAS unsteady flow analysis.
- Hydrograph needs to include flows directed to Oak Creek from San Ysidro Creek.
- HEC-RAS cross-sections need to extend far enough upstream and downstream to capture the influence of the Miramar project.
- HEC-RAS model needs to be calibrated to FIRM and consistent with San Ysidro Creek effective HEC-2 over-bank flows unless better technical information that FEMA would be willing to accept is provided.
- In use of HEC-HMS and HEC-RAS, provide technical justification if Romero and/or San Ysidro Creeks are not included in the detailed study.
- Any change in base flood elevation and/or floodway limits will require a submittal to FEMA for a Conditional Letter of Map Revision.

Mention was made of speaking to what mitigations would be required if pre- and post-project results showed an adverse impact. That's too speculative, not knowing the exact nature of what those adverse impacts might be.

Jon Frye, PE, CFM
Engineering Manager
SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

From: Gibbs, Michelle
Sent: Tuesday, January 29, 2008 12:45 PM
To: Frye, Jon
Cc: Ward, Dave; Black, Dianne; Almy, Anne
Subject: Miramar flood issue
Importance: High

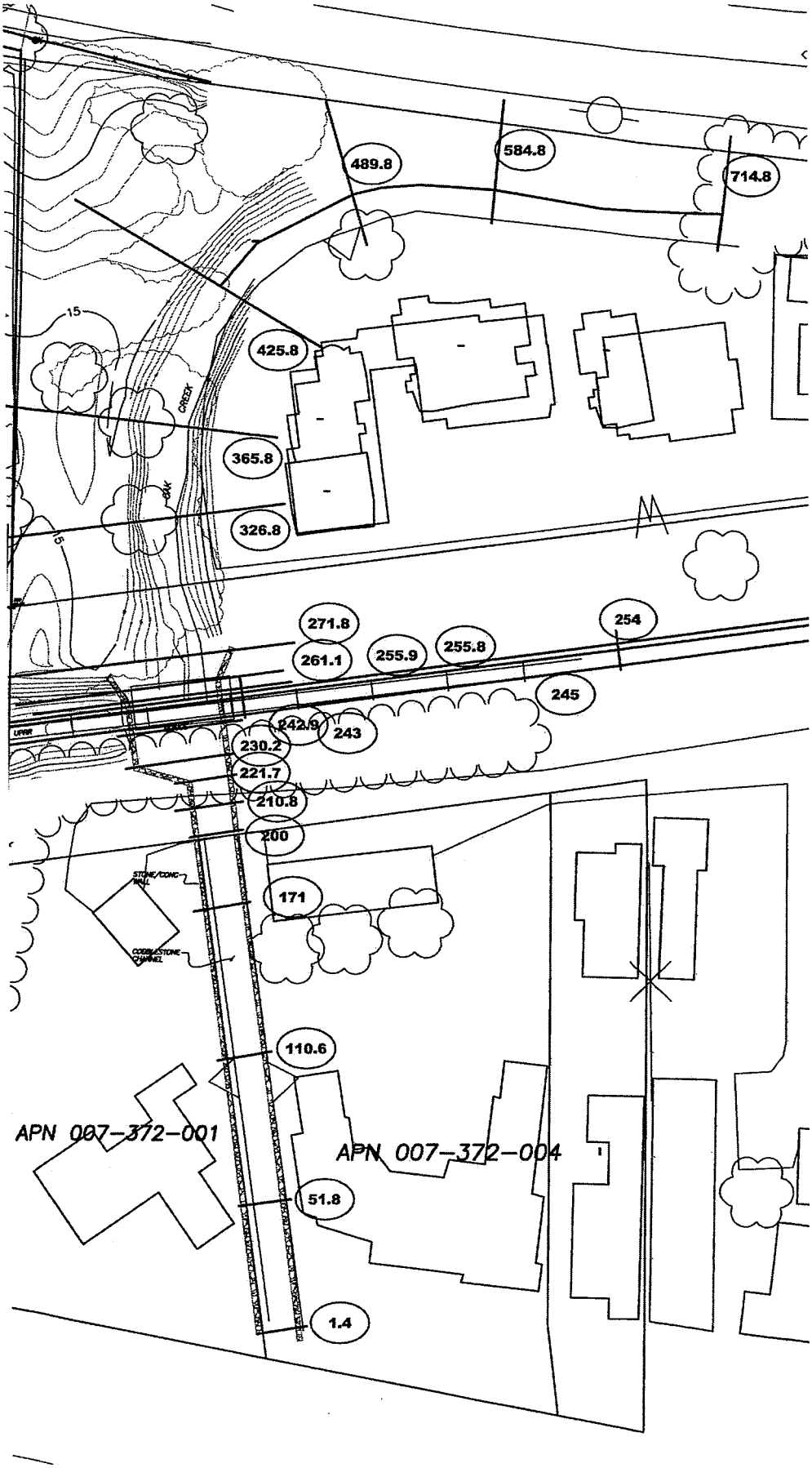
Hi Jon,

We are planning to conference call with the Miramar team at 1 pm today and we were hoping to discuss the flood issue further. If you have had a chance to draft your email to them before then, could you cc Dianne so that we might get it before or during the meeting?

Thanks so much!

Michelle

Michelle Gibbs, Planner III
Santa Barbara County Planning and Development Department
123 E. Anapamu Street
Santa Barbara, CA 93101
(805) 568-3508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584.8
714.8
425.8
365.8
326.8
271.8
261.1
255.9
255.8
254
245
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243
230.2
221.7
210.8
200
171
110.6
51.8
1.4
15
15
CREEK
OAK
STONE/CONC. WALL
COBBLESTONE CHANNEL
APN 007-372-001
APN 007-372-004

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CIVIL ENGINEERING SURVEYING LAND PLANNING

24 W. ST. JOSEPH STREET **TEL 626-446-4449**
ARCADIA, CA. 91007 **FAX 626-446-6566**

April 7, 2008

Ms. Alicia Bartley
Gains & Staey
16633 Ventura Blvd
Suite 1220
Encino Ca, 91436

Subject: Review of Penfield & Smith Drainage Report Dated March 7, 2008

Dear Ms. Bartley:

B&E Engineers (B&E) has reviewed Penfield & Smith (P&S) Drainage Report Dated March 7, 2008 associated with the Miramar hotel project.

In this report, P&S included a statement that flooding in the pre-project development occurs downstream of Union Pacific Railroad. This statement is in agreement with the Flowers report dated March 16, 1988.

The P&S report indicated that flooding will occur when the storm flow in Oak Creek channel reaches 700 CFS. They have estimated that the 700 CFS is about a 10-year storm event.

Based on this information, one can only imagine that the FEMA 1800 CFS 100-year storm would result on more flooding.

However, the P&S report is trying to prove that the proposed Miramar project would not exacerbate the flooding situation or if it would, the impact would be insignificant.

In this effort, P&S dealt mainly on proving that there would be no significant changes in the quantity of water runoff, water surface elevation or water velocity between the pre-development project and the post-development project conditions. They used the HEC-RAS and Hydro-Cad programs to calculate the water surface elevations and water velocities.

In this review, we skipped the Hydro-Cad calculations and reviewed only on the HEC-RAS calculations. As stated in our previous review of January 14, 2008, the Hydro-Cad program should not be used in this analysis. The same was also stated in Jon Frye e-mail to Michelle Gibbs dated January 31, 2008.

P&S report provided HEC-RAS calculations along Oak Creek in 2 segments. The first segment is a run from (River Station) RS 217 to RS 237.5. This segment is an area

between the upstream side of the vehicular bridge in Posilipo Lane and the downstream side of UPRR bridge. The second segment is a run from RS 254 to RS 714.8. This segment is an area between the upstream side of the UPRR bridge and the house located near Posilipo Lane and South Jameson Lane (P&S Report - Appendix A)

This segmental calculation resulted on no change in water surface elevations. However, the hydraulic control used in above segmental calculation is unclear. B&E believes that providing continuous (not segmental) calculation and setting the proper hydraulic control would yield on different results.

It also must be noted that the cross section in RS 261.1 of above HEC-RAS run is not complete. Both ends of the cross section are below the water surface elevation. A complete and detailed cross section must be used in the run to get accurate results.

As previously stated in B&E reviews and in Jon Fry email, P&S report should provide more cross sections extending far enough upstream and downstream to capture the influence of the Miramar project.

B&E believes that in order to get accurate results, the HEC-RAS run should start from the beach to the north of North Jameson Lane. HEC-RAS run should extend from RS 1.4 to sections immediately above North Jameson Lane with complete and detailed cross sections across APN 007-372-001 and APN 007-372-004 and including the existing channel and any existing structures. This is the proper way to determine the extend of flooding and its impact on existing properties.

Also P&S should consult with Santa Barbara County Flood Control District regarding the proper Manning's "N" values. P&S used "N" values less than what was used in the 1988 Flowers Report. P&S lower "N" values may have been the result of what they called the channel in their previous report "with maintenance". In such case the maintenance responsibility should be addressed.

P&S report did not address most of the issues raised in our previous reviews of March 24, 2008 and January 14, 2008 nor did it address the issues raised in Jon Fry email dated January 31, 2008. These are important issues that should be addressed and resolved prior to project approval.

As previously stated, further detailed analysis should be prepared to provide assurances to the adjacent property owners that their properties will not be impacted by the proposed development and to recommend appropriate mitigation measures where needed

Please feel free to contact me if you have any questions or to discuss
Sincerely,

Ramy F Awad

Ramy F Awad, P.E.
Vice President

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January 14, 2008

Ms. Alicia Bartley
Gains & Stacey
16633 Ventura Blvd
Suite 1220
Encino, CA 91436

Subject: **Preliminary Review of Drainage Reports – Miramar Hotel**
JN 2007439- G

Dear Ms. Bartley:

B&E Engineers (B&E) has performed a preliminary review/evaluation of the Penfield & Smith (P&S) Preliminary Drainage Reports dated November 9, 2007, December 7, 2007, December 12, 2007 and August 13, 2007 for the Miramar Beach Project.

B&E also reviewed a report prepared by MNS Engineers, Inc. (MNS) for the County of Santa Barbara dated November 15, 2001, for the North Jameson Lane Class II Bike Lane & Bridge Replacements Project, together with Flowers & Associates (F&A) report dated March 16, 1988, associated with the residential development of Tract No. 13684.

P&S reports indicate the FEMA flood elevation is 20NGVD29(22.6NAVD88) @ South Jameson Lane and 17NGVD29(19.6NAVD88) @ Union Pacific Railroad. The total 100-year runoff for Oak Creek is Q_{100}=1800 cfs per FEMA.

A significant portion of the site is located within the 100-year floodplain of the Oak Creek. Approximately 460' x 320' of the flooded area will be filled up to 12 feet as a part of the proposed development. Retaining walls along the easterly side with total heights of up to 13.6-foot and an earth berm along the southern side of the proposed development will be constructed to support the fill areas.

P&S reports indicated that there was flooding of the southerly portion of the site, north of the railroad after the 1995 storms, depositing up to one foot of silt in some location.

P&S report made an assumption that the existing offsite storm drain on Miramar Avenue has sufficient capacity to carry water quality flows, but not normal storm flows. It also

indicated that the proposed storm drain system will include a variety of pipes equipped with flapgate devices that would prevent backwater and silt from entering the site.

The P&S December 12, 2007 report deleted the statement regarding the need for underground detention basin that was proposed under the tennis court.

The most acceptable program of calculating water surface elevation of any watercourse is the HEC-RAS program. This program was developed by the US Army Corps of Engineers. P&S used this program only for short reach of the Oak Creek, from below US101 to the ocean. However, the MNS report had included calculations that extended farther north of US101. In both reports, the HEC-RAS calculations were run for the existing conditions. F&A report used the HEC-2 program which also was developed by the US Army Corps of Engineers.

Unlike the MNS report, the P&S August and December reports reviewed by B&E did not include maps showing the locations of River Stations used in HEC-RAS calculations.

The P&S report used the Hydrocad program to calculate and compare the water surface elevations for both pre and post development conditions. Hydrocad is a Computer Aided design tool that provides a wide range of commonly used drainage calculations such as Hydrograph routing through ponds and reaches, automatic hydraulics and culverts calculations and automatic pond storage calculations. Based on these calculations, P&S report arrived at the following conclusions:

1. Construction of the Miramar Hotel as submitted in July 2007 will not increase the 100-year water surface elevations upstream of the UPRR bridge.
2. Construction of the Miramar Hotel as submitted in July 2007 will not increase peak 100-year flow rates downstream of UPRR bridge.
3. Maintenance of the channel under the UPRR bridge to the ocean will decrease the 100-year water surface elevation upstream of the UPRR bridge by 0.2 feet (2.4 inches).
4. Maintenance of the channel under the UPRR bridge out to the ocean will decrease the downstream flow rate in the post-project condition compared to pre-project condition.
5. Maintenance of the channel under the UPRR bridge out to the ocean will slightly change the distribution of flow but the change is not within the statistical accuracy of the program to predict.

The following are B&E comments and evaluation on the above reports and conclusions:

First, it should be noted that the proposed project would satisfy the minimum setback requirement as set forth in chapter 15B of Santa Barbara County Code. The eastern portion of the project falls within the floodplain as shown in the FIRM (Flood Insurance Rate Map). Filling of the project site is outside of the regulatory floodway.

B&E review, analysis and evaluation of above reports was focused on the impact of the proposed 12-foot filling of that portion of the flooded drainage area west of Oak Creek between South Jameson Lane and Union Pacific Railroad to an elevation above the FEMA flood elevation to areas adjacent to and upstream of the proposed project.

Due to the fact that this proposed fill will reduce the 100-year FEMA floodplain area, the water surface elevation in a 100-year storm may rise and its velocity may increase, causing potential flooding or erosion on adjacent properties to the east and south as will be discussed further in this review.

B&E review does not address P&S assumption that the existing storm drain on Miramar Avenue has sufficient capacity to carry water quality flows, but not normal storm flows, nor does it comment on the water quality nor does it comment on the proposed on site storm drain system with flapgate as these items would be reviewed by the approving agency.

However, the onsite storm drain system collects storm water runoff from the project site, north of the railroad, and discharges it in one location along the easterly project boundary, approximately 110 feet north of the railroad right-of-way through weir and rip rap outlet structure.

P&S report did not analyze whether or not there will be a potential impact of discharging approximately 50 cfs in one location on both Oak Creek and adjacent properties to the east and to the south.

B&E review does not provide any discussions of the required permits which may include Santa Barbara Flood Control, US Army Corps of Engineers, California Department of Fish and Game or California Coastal Commission, nor does it address any potential environmental or visual impacts of the proposed fill, walls, berm or building heights.

The wall along the easterly side and the earth berm along the southerly side are proposed to support the 12-foot fill which will raise the new development's finished floor elevations and entrances elevations above the 100-year flood surface elevation to ensure the proposed development will be free of any flooding potential.

However, as stated earlier, this 12-foot added fill may have a potential adverse impact on the adjacent properties and on Oak Creek. Storm water runoff that would have normally flowed to the west, within FEMA floodplain area in the pre-development conditions would be prevented by the proposed fill in the post-development conditions.

This storm water, in the post development conditions, will have to flow east and south, causing the water surface elevation to rise and increase the potential of flooding on adjacent properties to the east and south. Also, the storm water velocity may increase which would also increase the potential of erosion on adjacent properties to the east and south.

P&S report should include detailed analysis to determine the potential impacts on Oak Creek and on the adjacent properties due to the proposed fill placement and the (+/-) 50 cfs concentrated discharge from the on site storm drain and recommend appropriate provisions to eliminate or minimize such impacts.

The proposed earth berm along the southerly project falls within the UPRR right-of-way. Top of berm elevation is proposed to be approximately 7 feet higher than the elevations of the rail road tracks. A drainage swale is proposed at the toe of the berm to convey the storm water runoff north of the railroad tracks to Oak Creek channel.

A permit or easement from UPRR may be required to construct the berm within its right-of-way and to ensure that this proposed berm will not adversely impact the current railroad operation.

Also, P&S should provide hydraulic calculations to evaluate if placing the berm within the railroad right-of-way would have drainage impacts and whether or not the size of the proposed swale at the toe of the berm will be adequate to convey the storm water runoff north of the rail road tracks to Oak Creek.

As stated earlier, P&S reports reviewed by B&E did not include maps showing the locations of River Stations used in HEC-RAS calculations. B&E is unclear at this time why the P&S reports utilized a combination of the HEC_RAS and Hydrocad programs instead of just the most commonly used HEC_RAS program.

B&E is of the opinion that an increase in the 100-year water surface elevations upstream of UPRR bridge will most likely occur in the post-project conditions using the HEC_RAS program for both pre and post-project conditions which contradicts P&S conclusion.

However, B&E is not in a position at this time to categorically state this opinion as a conclusion until B&E reviews the necessary data, e.g., topography of the area, bridges info and channel information.

P&S indicated a net decrease in project site runoff due to increase in permeable surface areas in post developed condition. P&S indicates the on-site perviousness for the pre-project is 24% and for the post-project is 55%.

The P&S report states that the storm water discharge from the site would be reduced from 50.5 cfs in the pre-project condition to 49.96 cfs in the post project condition for the 100-year rainfall event. This is a reduction of 0.54 cfs or a 1% of the on site 100-year storm event.

Although B&E cannot confirm the increased site perviousness in the after development conditions, above 0.54 cfs decrease in project site runoff will not significantly change the total FEMA 1800 cfs for the 100-year runoff for Oak Creek. As stated earlier, the

potential impacts on Oak Creek and surrounding properties may result from discharging the on site storm water runoff in one location.

P&S conclusions related to channel maintenance could not be verified at this time. As stated previously, P&S reports reviewed by B&E did not include maps showing the locations of River Stations used in HEC-RAS calculations. In the December report, cross sections input data for both pre and post developed conditions were included as well as the profile output for flows ranging from 125 cfs to 5000 cfs, but there was no output for the FEMA 1800 cfs. B&E is unclear why the output profile did not include the FEMA1800 cfs.

The input data in P&S report for both pre and post developments look identical and do not reflect changes due to the proposed development. Unless the flood elevations are within the regulatory floodway, it is critical that the cross sections for the developed conditions be revised to reflect the proposed grading due to filling within the project site.

B&E has no way of verifying the accuracy of the calculations without the maps and cross sections. P&S report should include accurate cross sections of the pre and post development conditions and include a copy of the Standard Table 1 of the HEC_RAS Profile Output Table.

In analyzing Oak Creek, downstream of the railroad, P&S report states that they utilized the HEC-RAS hydraulic model and peak flow of 1800 cfs. They indicate that they input the geometry of the channel through the railroad and down to the ocean. P&S report states that this was a very complicated model because almost as soon as the water passes through the railroad, it starts leaving the channel, overflowing onto adjacent properties.

P&S analyzed the 1800 cfs, 100-year runoff for Oak Creek and calculated the amount of water flowing in the channel to be 1,524.6 cfs and the amount of water spilling to the east and west of the channel to be 133.2 cfs and 142.2 cfs (Total of 275.4 cfs) for the existing conditions. P&S also calculated 1,526.4 cfs will flow in the channel and 136.8 cfs for each of the east and west sides (Total of 273.6 cfs) when the channel is maintained.

This indicates that the channel maintenance will increase its capacity by 1.8cfs (1526.4-1524.6) which equals to 0.1% of the FEMA 1800 cfs (1.8/1800).

However, P&S report did not discuss the channel maintenance responsibility, nor did it discuss mitigation measures to protect adjacent property owners from the 270+ cfs that would spill over the channel.

This issue should be addressed in P&S report and satisfied by the approving agency.

It should be noted that in the MNS study, the velocities in Oak Creek between South Jameson Lane and UPRR for most of the River Station exceeded 10 feet per second. P&S calculations, however, showed velocities in the same area to be less than 10 feet per

second. It is unclear as to why there is a discrepancy between the velocities in the 2 reports. P&S report should address this issue.

B&E points this out because some public agencies have velocity and depth requirements when building within the flood plain. B&E is not aware of what velocity requirement Santa Barbara County implements in building within the floodplain. Depth requirement of no more than one foot rise in water surface elevation is however being implemented.

It should also be noted that in the P&S August report, HEC_RAS calculations from below US101 to the ocean, the flood flow of 1800 cfs was reduced at some point downstream. B&E does not know the reason why this was reduced. P&S report should provide more discussion on this issue.

As a general conclusion based on the above analysis and without the benefit of having complete information on the data used in P&S reports, B&E is of the opinion that to a certain degree, constructing the wall and placing the fill may cause an adverse impact on surrounding properties including increased flooding and erosion potential.

Further detailed analysis should be prepared at this time and prior to project approval by the approving agencies to provide assurances to the adjacent property owners that their properties will not be impacted by the proposed development, and to recommend appropriate mitigation measures where needed.

Please feel free to contact me if you have any questions or to discuss this letter
Sincerely,

Ramy F. Awad

Ramy F. Awad, P.E.
Vice President

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October 8, 2007

Ms. Alicia Bartley
Gains & Stacey
16633 Ventura Blvd
Suite 1220
Encino, CA 91436

Subject: Preliminary Drainage Report – Miramar Hotel
JN 2007439- G

Dear Ms. Bartley:

B&E Engineers has performed a preliminary review/evaluation of the "Preliminary Drainage Report" studies for the proposed project prepared by Penfield & Smith, 222 East Victoria Street, Santa Barbara, California, 93101. The report is dated August 13, 2007.

The above report includes the hydrology studies of the project site in both pre-development and post-development conditions for 10 through 100 year storm events, proposed Onsite Storm Drain Systems, Hydraulic Analysis of Oak Creek, Water Quality Analysis and several Best Management Practice measures for storm runoff mitigations.

The proposed project is said to be within the 100-year flood plain of Oak Creek, portion of which will be filled up during construction. The hydraulic analysis in the above mentioned report concludes the project would have no impact to the existing drainage condition of the site and surrounding areas.

In order to ascertain above conclusion, additional data must be produced and analyzed. The following are B & E Engineers' general comments on the abovementioned report:

1. Pre and post development conditions hydrology studies must include the 5-year storm event as required by "Santa Barbara County Flood Control and Water Conservation District - Standard Conditions of Project Plan Approval".

2. Storm Drain inlets shall be designed for peak 25-year event with a positive overland escape design for a 100-year storm per Santa Barbara County Flood Control and Water Conservation District.

3. Requirements for buildings within the flood plain are not defined in the report. Additional information should be provided addressing the maximum velocity and rise in water elevation that have to be satisfied to build within the flood plain.

4. Thorough and complete review and evaluation can not be completed at this time without the full sized plan (40 scale or better) of the pre and post developed conditions of site plan, grading and drainage plans complete with topography .The maps in the report are too small and illegible, therefore, this office requests full scale maps of the Flood Insurance Rate Map and the set of 5 plans dated 6/27/07 along with any pertinent maps, reports or calculations for further review.

5. Choices of Best Management Practice devices must be discussed in the report in consultation with the Santa Barbara County Flood Control and Water Conservation District.

Please feel free to contact me if you have any questions or to discuss this letter
Sincerely,

Ramy F. Awad

Ramy F. Awad, P.E.
Vice President

SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
STANDARD CONDITIONS OF PROJECT PLAN APPROVAL

1. Hydrologic studies shall be made of the entire watershed area contributing drainage to the project. Both calculations and clearly marked watershed maps shall be submitted at the plan check submittal for approval by the Flood Control Engineer. Contributing areas are based on natural contours or an accepted master drainage plan. Drainage quantities shall be derived from considerations of expected future development of the watershed, soil types, historical storm data, gradient of terrain, etc. These considerations must receive approval by the Flood Control Engineer. For most major channels, flow quantities may be supplied by the Flood Control Engineer if available. The Hydrologic studies shall provide pre-development and post development analysis for 5 through 100 year storm events. New development shall mitigate for increased runoff by directing drainage to an acceptable watercourse, improving downstream facilities, or by mitigating the increased runoff on-site at the discretion of the Flood Control Engineer.

2. Improvements may be required to intercept and convey off-site and on-site runoff through the project site to a District approved water course or drainage facility.

3. Watercourses shall be placed in closed conduits where the flow requires pipe diameter of 48 inches or less. Artificial water courses which convey runoff generated within the tract shall be in a closed conduit regardless of size.

4. Storm drains and drainage inlets shall be sized for a peak 25-year runoff event with a positive overland escape design for a 100-year storm. Minimum size for Storm Drains shall be 18 inches unless otherwise approved by the Flood Control Engineer.

5. Storm drains and drainage inlets in sump conditions shall be sized for a 100-year storm and shall provide positive overland escape.

6. Drainage inlets shall be designed and located in a manner which will assure adequate travel lanes with no more than 10 cfs conveyed per gutter, within the curbs, in a 10-year storm. A 25-year storm flows should be contained within the curbs; 100-year storm flows should be contained within the right-of-way or private street easement.

7. Development located within the limits of floodplain/floodway as shown on the current Federal Insurance Rate Maps (FIRM) may be required to process a FIRM map revision/amendment prior to land use clearance and/or recordation of a final map. Development within the floodplain/floodway as shown on the current FIRM maps shall meet all requirements in the County's Floodplain Management Ordinance No. 3898 and the County's Setback Ordinance No. 3095.

8. Grading and improvement plans for drainage improvements signed by a civil engineer shall include the following information:

a) The Design energy and hydraulic grade lines shall be on the Improvement or Underground Storm Drain profiles. Junction losses are to be calculated by a momentum analysis.

b) The 100-year Energy and Hydraulic Grade Line shall be shown on plans and profiles for open channel designs.

c) Hydraulic data shall be included on engineering plans for all drainage channel, pipes, etc. as required by the Flood Control Engineer.

d) Storm drain center lines and drainage inlet locations shall be identified on the Grading Plans.

e) Hydraulic/hydrologic studies shall be prepared and signed by the California Registered Engineer who signs the improvement plans. The use of District computer programs for designing drainage improvements and retention basins is encouraged.

9. Projects shall be designed with a clearly defined permanent overland escape path (preferably a street) for storm runoff. The escape path should be free of obstructions such as fencing, sound walls, etc. Downhill sump cul-de-sacs shall have an improved dedicated overland escape.

10. Pursuant to County Ordinance 3898, the lowest finish floor elevation of all new structures shall be at least 2 feet above the 100 year water surface elevation. Graded lot pads with slab on grade foundations shall be at least 1.5 feet above the 100-year water surface elevation, with finish floor 2' above 100 year elevation. Finish floor elevations may be increased if deemed necessary by the Flood Control Engineer. Finish floor elevations shall be higher than overland escape of adjacent streets, bridges and other obstructions.

11. Retention basins are required by the District in the Orcutt/Santa Maria area to reduce peak runoff generated from the development site. Basins are also required for Greenhouse Development. Basins may be required in other areas of the County if downstream facilities are determined to be inadequate by the Flood Control Engineer. Basins shall be designed to meet the following standards:

a) Greenhouses: Retention Basins are required for greenhouse development. Basins shall provide retardation for the 5 through 100 year storm events, where appropriate. Post-development runoff shall not exceed 75 percent of the calculated pre-development runoff.

b) Hydraulic Analysis: The hydraulic analysis of retention basins shall be performed by a Registered Civil Engineer using the Santa Barbara Urban Hydrograph Computer Program or District approved equivalent. The Santa Barbara Urban Hydrograph (SBUH) computer program is available from the District under a license agreement.

c) Volume: Retention Basins shall be sized to provide capacity for a 25 year storm event (minimum) and to meet the outflow requirements listed below. Generally, the minimum volume provided should not be less than .07 acre feet per acre for residential developments, or .10 acre feet per acre for commercial developments for sites that are 3 acres or less. Sites greater than 3 acres shall be designed with the SBUH computer program. The volume capacity for retention basins may be increased as determined by the Flood Control Engineer based upon downstream conditions.

d) Outflow Device: All retention basins are to be designed to be free draining. Inlet structures shall be located next to the outlet structure where feasible. Terminal basins (i.e. pumped basins) are not allowed. Outlet pipes shall be oversized (18 inch minimum) with an orifice restriction to limit outflow to .07 cubic feet per second per acre of developed land or as determined by the Flood Control Engineer. Orifice restriction plates shall be removable for emergency situations. A removable trash rack shall be provided at the outlet. Orifice plates and trash racks shall be galvanized. Mounting hardware shall utilize stainless steel bolts.

e) Slopes: Maximum side slopes shall be four horizontal to one vertical on interior slopes and two horizontal to one vertical on exterior slopes. A District-approved soil cement core mix design, or a two sack slurry trench shall be required on all filled levee sections. A soils engineering and geotechnical engineering report shall be provided for all fill levee sections. The report shall address remedial grading, benching, and slope stability of the level sections.

f) Emergency Overflow: An emergency overflow spillway shall be sized for the peak 100 year storm runoff. The spillway shall be engineered and shall be reinforced concrete. The spillway should be designed with a minimum of 1'0" of freeboard above the 100 year spill water surface elevation.

g) Low flow drainage: The bottom of the basin shall have a minimum gradient of 2% draining to the outlet; or a low flow reinforced concrete swale shall be provided with a minimum gradient of .5% draining to the basin outlet.

h) Access Ramp: A graded 16' wide maintenance access ramp shall be provided down into the basin near the outlet. A 16' wide commercial driveway approach shall be provided where curb and gutter front the maintenance ramp.

i) Fencing: Perimeter fencing (minimum height of 42 inches) shall be required on all basins exceeding two feet in depth or where interior side slopes are steeper than six horizontal to one vertical. A double eight foot wide swing gate (16 feet total) shall be provided at the access ramp.

j) Landscaping: The Flood Control District shall require review and approval of any proposed basin landscape plan. Landscape planting shall be selected to be as maintenance free as possible. No trees and /or shrubs are to be planted within 15 feet of the basin outlet. Floating objects such as railroad ties and landscape bark are not permissible.

k) Maintenance: Prior to recordation of the final map or final development approval, the applicant shall enter into a maintenance agreement with the District to assure perpetual maintenance of the basin and related on-site private drainage improvements and to allow the County emergency access. A copy of the CC&R's shall be submitted to the District for approval. Maintenance of the basin is the responsibility of the development.

12. A Plan Check fee deposit made payable to the Santa Barbara County Flood Control and Water Conservation District shall accompany the initial Grading and/or Improvement plan submittal. The plan check fee deposit shall be the amount as shown in the current District fee schedule.

13. Where drainage waters are discharged from the project site in a concentrated manner, e.g. streets, channels, culverts, such drainage shall be conveyed to established water courses in a non-erosive manner. Easements for off-site drainage conveyances shall be acquired and presented to the Flood Control office prior to recordation or zoning clearance. A title report shall accompany these easements.

14. Easements, fencing, grading, etc. for Flood Control facilities, access roads and ramps shall be provided in accordance with current policies of the Flood Control District. Easements shall be dedicated on the Final Map or dedicated by a separate instrument. The cost for easement acceptance by the District and processing with the Real Property Department will be paid by the Developer.

15. A Surety Bond for drainage improvements will be posted with the Public Works Department in an amount approved by the Flood Control Engineer prior to recordation of the Final Map or Zoning Clearance. Bond amounts will be based on the submitted cost estimates of proposed drainage improvements to be constructed outside the Public Road right-of-way.

16. One copy of District approved Grading and/or Drainage Plans, and Improvement Plans and Final Map shall be submitted on aperture cards as well as one copy of signed prints of the same shall be furnished to the District prior to recordation or zoning clearance.

17. The Flood Control District shall be notified 5 working days in advance of storm drain and attendant auxiliary construction. The District may provide periodic inspection during construction. A note shall be placed on the plans to this effect.

18. The California Registered Civil Engineer that signs the Grading and/or Improvement Plans shall be responsible for the inspection of drainage improvements located outside the Public Road right-of-way. When required, special inspection will be performed for construction of drainage facilities. An inspection fee deposit agreement along with an inspection fee deposit will be required. Inspections will be charged at an hourly rate against the deposit. A note shall be placed on the Grading and/or Improvement Plans to this effect.

19. A Drainage Improvement Certification will be required prior to occupancy clearance. The District certification form requires that the California Registered Engineer certify that all drainage improvements (i.e. ditches, swales, channels, storm drains, drainage inlets, junctions, retention basins, revetment, etc.) were constructed in substantial conformance with the approved Plans. A note shall be placed on the plans to this effect.

20. During the construction process, the District will review and approve in writing any significant design revisions to the approved Plans prior to construction of the proposed revisions.

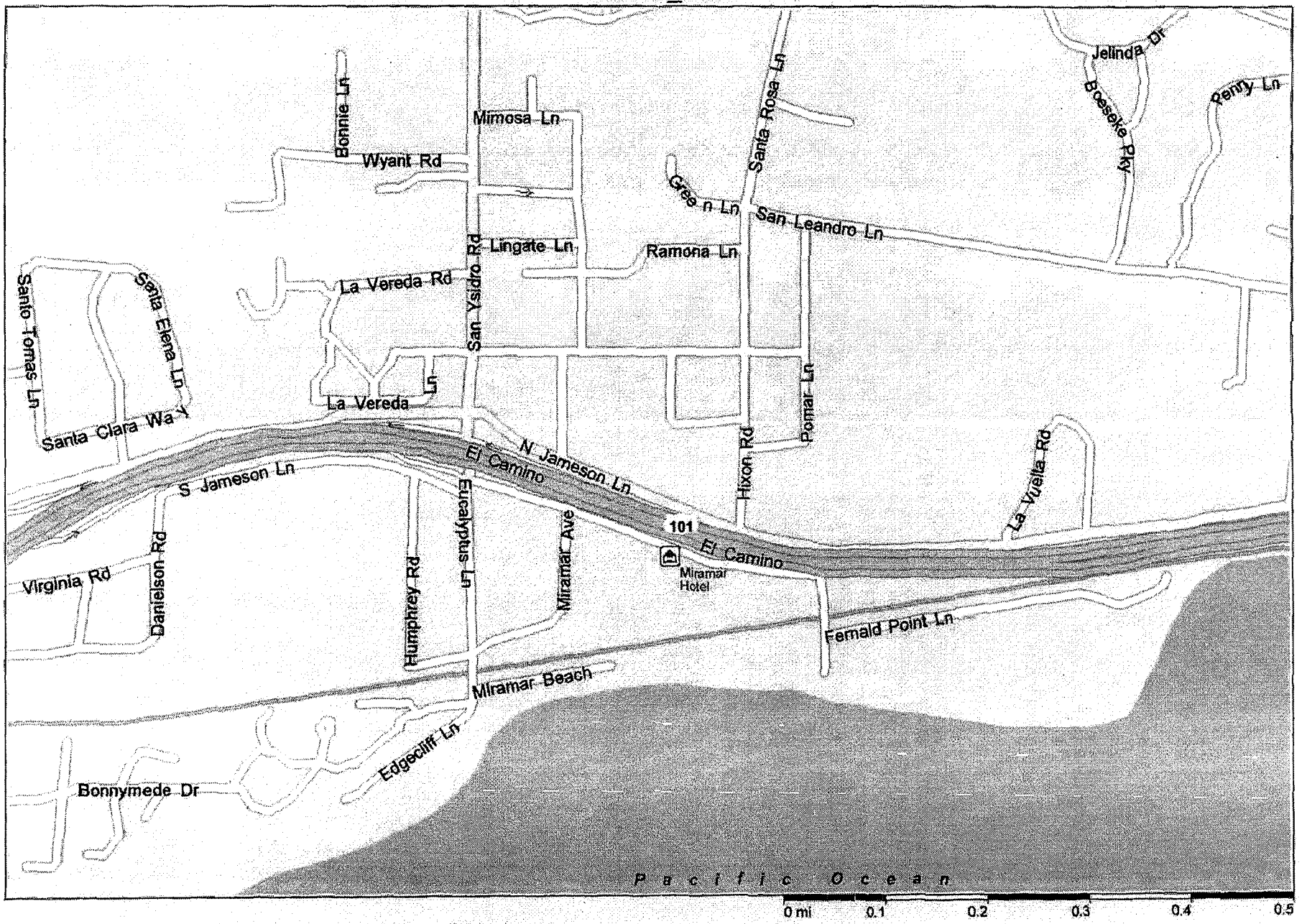
21. Prior to occupancy clearance, the "As-Built" Plans shall be submitted to the Santa Barbara County Flood Control and Water Conservation District.

22. A Flood Control Encroachment Permit is required for improvements in the Flood Control District right-of-way. An Encroachment Permit shall be executed prior to the start of construction within District right-of-way. District notification shall be required 5 working days prior to the start of construction. An Encroachment Permit fee is required. A note shall be placed in the plans to this effect.

23. Review by the District of plans and granting of encroachment permits does not relieve the applicant, developer, contractor and/or owner from the responsibility to obtain all other required permits and approvals required by law, including but not limited to grading permits, building permits, environmental review for CEQA/NEPA requirements, Fish & Game permits, Army Corps of Engineers permits and other City, CalTrans or other County department approvals and the approval of the underlining property owner(s) of record.

24. The District reserves the right to modify these conditions as site conditions warrant.

miramar_hotel

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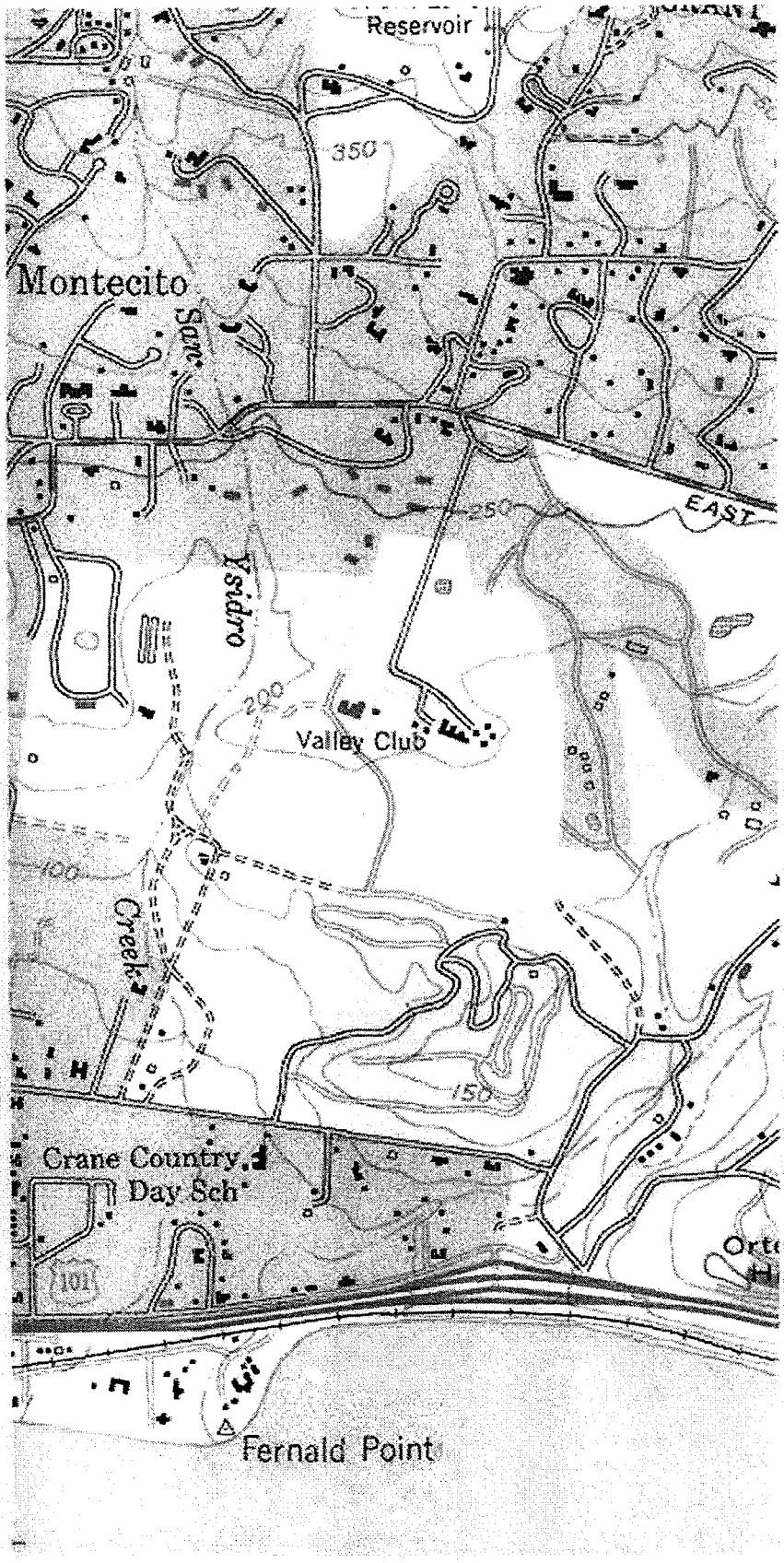
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Fernald Point