

ATTACHMENT 1: FINDINGS

March 15, 2011

1.0 CEQA FINDINGS

The Santa Barbara County Board of Supervisors has considered the Addendum dated ~~February 23~~ March 15, 2011 together with the previously certified focused Environmental Impact Report (08EIR-00000-00003), Mitigated Negative Declaration (00-ND-003) and Addendum dated December 9, 2008, for the Miramar Beach Resort & Bungalows project Case Nos. 10AMD-00000-00010, 11CDH-00000-00001, 11AMD-00000-00002, 11AMD-00000-00003, 11AMD-00000-00004 & 11AMD-00000-00005. The Addendum reflects the independent judgment of the Board of Supervisors and has been completed in compliance with CEQA. The Addendum dated ~~February 23~~ March 15, 2011, together with the CEQA documentation package, i.e., focused Environmental Impact Report (08EIR-00000-00003), Mitigated Negative Declaration (00-ND-003) and Addendum dated December 9, 2008, is adequate for this proposal. There have been no substantial changes proposed in the project, no substantial changes with respect to the circumstances under which the project would be undertaken and no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous focused EIR, Mitigated Negative Declaration and Addendum dated December 9, 2008 package was certified. On the basis of the whole record, including the Addendum, the previously certified EIR, Mitigated Negative Declaration and Addendum dated December 9, 2008, and any public comments received, the Board of Supervisors finds that the project changes described in the Addendum will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment.

2.0 ADMINISTRATIVE FINDINGS

2.1 Development Plan Amendment Findings

Pursuant to Section 35-174.10.2.b, all of the following additional findings must be made:

2.1.1 In addition to the findings required for approval of a Final Development Plan set forth in this Section 35-174.7, the proposed Amendment is consistent with the specific findings of approval, including CEQA findings, if applicable, that were adopted when the Final Development Plan was previously approved.

The amended project is consistent with the specific findings of approval, including the CEQA findings that were adopted when the Final Development Plan was previously approved by the Board of Supervisors on December 9, 2008. Project changes include elimination of one floor of underground parking, removal of the Ballroom building, removal of the beach/tennis club building, a reduction in the number of hotel rooms from 192 to 186 and a reduction in site grading quantities. A previously proposed retaining wall of 10-feet in height has been removed from the project and substantial filling of the Oak Creek floodplain has been dramatically reduced in the amended project. Such changes have reduced the project's scope such that it continues to be consistent with the original findings of approval. Therefore, this finding can be made.

2.1.2 *The environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project.*

Environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project. Project changes include elimination of one floor of underground parking, removal of the Ballroom building, removal of the beach/tennis club building, a reduction in the number of hotel rooms from 192 to 186 and a reduction in site grading quantities. A previously proposed retaining wall of 10-feet in height has been removed from the project and substantial filling of the Oak Creek floodplain has been dramatically reduced in the amended project. Such changes have reduced project impacts in several environmental impact areas.

A new surface parking lot to be located in the eastern portion of the site as part of the proposed amended project was not included with the approved project. The parking lot will be surfaced with permeable materials to allow stormwater infiltration and screened by new plant materials. In order to provide adequate screening, the lot would be surrounded by a combination of landscaped berms, trees, bushes, and hedges to essentially hide the lot from view from hotel guests to the west, from Jameson Avenue to the north and from the residential properties to the east. Internally the parking lot would be broken up by hedges placed on islands, breaking the lot up into smaller sections. The mitigation measure limiting night lighting included with the approved project has been amended to apply to the new surface parking lot and would require that these lights will be dimmed at 10 pm to reduce light intrusion on adjacent properties.

On a long-term basis, the buildings included with the proposed amended project would continue to include the same features intended to attenuate interior noise as those included with the approved project. Also, the proposed amended project would include similar noise-generating uses (i.e. events, beach events, use of the onsite pools and other outdoor amenities, etc.) affecting surrounding properties as those included with the approved project. Specifically, the pool bar included with the approved project would be replaced by a one-story restaurant building under the proposed amended project. As with the approved project, the pool/restaurant area would be a gathering place for patrons, and thus, a point source for noise generation. However, as was the pool bar, the restaurant would be located in the center portion of the site, away from the surrounding residential neighborhood. As such, operational impacts related to noise would be substantially the same or less than those generated under the approved project.

The approved project included filling of the Oak Creek floodplain in the eastern portion of the site in order to develop the previously approved Ballroom building. Such filling would have resulted in the loss of approximately 7.6 acre-feet of storm water ponding volume upstream of the railroad tracks. The proposed amended project would remove the Ballroom building and includes a reduction in the amount of fill in the eastern portion of the site (approximately 12,500 cubic yards less than the approved project) resulting in a reduction of

lost stormwater ponding volume in the Oak Creek floodplain to approximately 4.0 acre-feet. According to the *Drainage Evaluation of Revised Miramar Grading Plan Compared to Approved Miramar Grading Plan* prepared by Craig Steward, P.E., CFM and dated December 22, 2010, "Because of the lowered site profile at the easterly end of the property next to Oak Creek, there will be more storage volume available for Oak Creek peak flows upstream of the UPRR Railroad." Because more stormwater could be stored in the floodplain of Oak Creek onsite during flood events, impacts associated with proposed amended project development in the floodplain would be less than the approved project.

Therefore, environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project and this finding can be made.

2.2 Development Plan Findings

Pursuant to Section 35-174.7, a Preliminary or Final Development Plan application shall be approved or conditionally approved only if the decision-maker first makes all of the following findings, as applicable:

2.2.1 That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed.

The project site was found to be adequate in size, shape, location, and physical characteristics to accommodate the density and level of development included with the approved project. The proposed amended project would be smaller in scale in terms of both physical development and use levels. Therefore, this finding can be made.

2.2.2 That adverse impacts are mitigated to the maximum extent feasible.

As discussed in the environmental review documents [Environmental Impact Report (08EIR-00000-00003), Mitigated Negative Declaration (00-ND-003) and Addendum dated December 9, 2008] for the approved project, and incorporated herein by reference, adverse impacts anticipated to all issue areas except for historic resources have been mitigated to less than significant levels (Class II impacts). Project-specific and cumulative impacts on historic resources would be adverse, unavoidable, and cannot be fully mitigated (Class I impact). Statements of Overriding Consideration are required for these impacts and were made by the Board of Supervisors on December 9, 2008 for the previously approved project. As with the approved project, the proposed amended project would demolish and remove all existing buildings, including those found to be historic.

The Addendum for the proposed amended project dated February 23, 2011, to the CEQA documentation package for the approved project, confirms that the proposed project would not result in changes to, or increases in, the severity of impacts. All previously adopted mitigation measures would apply to the proposed amended project. Therefore,

impacts associated with the proposed amended project are reduced to the maximum extent feasible.

A Structural Conditions Report was prepared for the cottages and out buildings on the Miramar property by Holmes Culley (March 19, 2007 and April 15, 2008), which determined that these buildings would either be completely unsalvageable structurally due to extensive water damage, weathering, and other forms of decay, or would need to have their exteriors completely replaced due to termite and severe mold issues. Based on the Holmes Culley reports, repair of these historically significant buildings onsite would not be feasible without completely destroying the character-defining features that determine their historical significance (i.e., shingles, clapboard, skirting boards rafter tails, gable vents, and any remaining multi-paned windows). The findings of these reports were verified by the County's Building Official.

Mitigation measure HIST-1 (Condition No. 32) requires that each historical structure be completely documented following the Secretary of the Interior's HABS (Historic American Buildings Survey)/HAER (Historic American Engineering Record) procedures and methods. The applicant has completed this condition by delivering to P&D a complete historical documentation package for archival at the Gledhill Library. While this condition has been satisfied, there are no other known feasible mitigation measures to preserve the character-defining features of the buildings and demolition of all of the existing historically significant structures would be a permanent loss to the historic resource.

Regarding the "Miramar" neon roof sign, neon pole sign, and sandstone caps, implementation of the mitigation measures contained in 00-ND-003 (Conditions of Approval 31, 32 & 85) for the preservation of these features are still feasible and would be implemented for the proposed amended project.

The Final SEIR, 08EIR-00000-00003, prepared for the approved project evaluated three alternatives to the project as follows: (1) the No Action Alternative, i.e., continued site vacancy or the approved Schragger Plan (e.g., previously approved project from July 1, 2002), (2) Alternative 1 - Replacement of Historically Significant Features on Existing Cottages and "Out Buildings" and Repair of the Poolside Rooms, and (3) Alternative 2 - Relocation of Historically Significant Structures. Of these, the only alternative that was determined to be feasible was the No Action Alternative. However, it was determined to result in an equivalent permanent loss of historic structures similar to the approved project since the existing structures would suffer continuing decay. Therefore, because there are no feasible alternatives for preserving historic structures onsite and reducing impacts to less than significant (Class 1), these resources are being preserved to the maximum extent feasible without prohibiting all development of the site. Therefore, adverse impacts are mitigated to the maximum extent feasible for the proposed amended project and this finding can be made.

2.2.3 *That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.*

As discussed in Section 6.1 of the staff report dated February 4, 2011 for the proposed amended project, and incorporated herein by reference, the nearby streets and highways are of adequate capacity and design to accept the traffic anticipated to be generated by the proposed amended project. As such, the proposed amended project would not adversely affect the capacity of the nearby roadways and intersections. In order to support these conclusions, the applicant has provided an updated "Trip Generation Analysis" prepared by Associated Transportation Engineers dated January 5, 2011. The analysis concludes that the reduced project will generate fewer trips than the approved project and therefore, will not generate significant impacts to the surrounding street network. Therefore, this finding can be made.

2.2.4 *That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.*

As discussed in Section 6.1 of the staff report dated February 4, 2011 for the proposed amended project, and incorporated herein by reference, there are adequate public services in place to serve the proposed amended project including fire protection, water supply, sewage disposal, and police protection. The proposed amended project would continue to be served by the Montecito Water District (Water Service Letter dated July 29, 2008), the Montecito Sanitary District (Service and Condition Letter dated October 2, 2008) and the Montecito Fire Protection District. A Fire Access Plan was approved for the approved project and incorporated into the site plans for the proposed amended project which outlines fire access lanes and turnarounds throughout the property. The east-west segment of Miramar Avenue would be improved to 18 feet in width and a fire-turnaround would be provided where Miramar Avenue intersects the north-south trending fire lane in the western portion of the property. The Montecito Fire Protection District has reviewed and approved the changes included with the proposed amended project as stated in their letter dated March 3, 2011. Therefore, this finding can be made.

2.2.5 *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.*

The project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood. Services would be provided by the appropriate public service entity including the Montecito Sanitary District, the Montecito Water District and the Montecito Fire Protection District. The existing railroad crossing on the east side of the property would be upgraded as part of the project resulting in a safer crossing for residents who use this access and live east of the Miramar property along the beach. With implementation of the project, the currently vacant and decrepit site would

be redeveloped into a vibrant and visually pleasing amenity for the community. Redevelopment of the site would also actively discourage trespassing and vandalism.

The proposed amended project includes several reductions from the approved project which would aid in its continued compatibility with the surrounding neighborhood including removal of the Ballroom Building and relocation of the Ballroom use into the Main Building, removal of the Beach & Tennis Club building, a new landscaped parking lot lower in elevation than the adjacent Jameson Lane and increased views across the site. During their conceptual review of the approved project, the MBAR provided positive comments about its siting, grading and landscaping, confirming their assessment that it will be compatible with the surrounding neighborhood. In order to ensure the project's consistency with "Cottage Style Hotel" as defined in the Montecito Community Plan, Condition of Approval No. 87 would require the project to return to the Montecito Planning Commission prior to return to the MBAR for a discussion regarding the project's consistency with the "Cottage Style Hotel" requirement.

As with the approved project, the proposed amended project would be compatible with the established physical scale of the surrounding area. The project includes the following measures intended to mitigate potential aesthetic impacts to a less than significant level and ensure consistency with Montecito Community Plan (MCP) visual policies: 1) landscaping shall be compatible with the character of the surroundings and the architectural style of development on the site and shall be maintained throughout the life of the project; 2) the provision of landscape and maintenance performance securities; and 3) the design, scale, and character of the approved project architecture and landscaping shall be compatible with development in the vicinity and the applicant shall submit the Landscape Plan and final architectural drawings of the approved project for review and approval by the Montecito Board of Architectural Review.

Identical to the approved project, in order to provide for project compatibility with the surrounding neighborhood in terms of bulk and scale, each of the guest room buildings of the proposed amended project to be located in the western and southwestern portions of the property adjacent to residentially developed properties are limited in size and to one story in height. The previous two-story guest room building No. 9 included with the approved project has been converted to the Hotel restaurant and moved to the east side of the pool, away from the residential neighborhood located on Miramar Ave. west of the property. Additionally, aAll two-story buildings included with the project are located in the northern portions of the site adjacent to Jameson Lane and along near the property's beach frontage where adjacent buildings are also two stories in height. Limiting the size and height of these buildings adjacent to residential uses will ensure visual impacts of the proposed amended project remain less than significant and that the project would be consistent with the visual resource protection policies of the Coastal Land Use Plan and Montecito Community Plan.

The approved project included filling of the Oak Creek floodplain in the eastern portion of the site in order to develop the previously approved Ballroom building. Such filling would have resulted in the loss of approximately 7.6 acre-feet of storm water ponding volume upstream of the railroad tracks. The proposed amended project would remove the Ballroom building and includes a reduction in the amount of fill in the eastern portion of the site (approximately 12,500 cubic yards less than the approved project) resulting in a reduction of lost stormwater ponding volume in the Oak Creek floodplain to approximately 4.0 acre-feet. According to the *Drainage Evaluation of Revised Miramar Grading Plan Compared to Approved Miramar Grading Plan* prepared by Craig Steward, P.E., CFM and dated December 22, 2010, "Because of the lowered site profile at the easterly end of the property next to Oak Creek, there will be more storage volume available for Oak Creek peak flows upstream of the UPRR Railroad." Because more stormwater could be stored in the floodplain of Oak Creek onsite during flood events, impacts associated with proposed amended project development in the floodplain would be less than the approved project. Therefore, this finding can be made.

2.2.6 *That the project is in conformance with 1) the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls with the limited exception allowed under Section 35-161.7.*

As discussed in sections 6.1 and 6.2 of the staff report dated February 4, 2011 and hereby incorporated by reference, the project would be consistent with all applicable polices contained in the Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan and with the applicable provisions of the Coastal Zoning Ordinance. The project would have adequate services and resources in place to serve the proposed hotel and visitor serving commercial uses. Structural development would be heavily screened by proposed landscaping materials to minimize visibility from public viewing areas along the Highway 101 corridor to the extent feasible. Therefore, this finding can be made.

2.2.7 *That in designated rural areas the use is compatible with and subordinate to the scenic, agricultural and rural character of the area.*

The proposed amended project is designated as an urban area. Therefore, this finding does not apply.

2.2.8 *That the project will not conflict with any easements required for public access through, or public use of a portion of the property.*

An existing lateral access easement across the Miramar property (dated July 21, 1975 and recorded on October 6, 1975) on the beach at least 20 feet from the water line for public access would remain in effect at all times (except for when the water has reached the edge of the boardwalk). Although the Miramar Hotel would have use of the area of sand between the boardwalk and the water, at no time would any hotel activity be allowed to

interfere with public use of this 20-foot easement. In addition, Condition of Approval No. 49 would require recordation of two vertical public access easements across the property: 1) Across the proposed new fire lane through the western portion of the site; and 2) across the existing access road on the east side of the Main Building connecting to the lateral beach access within the boardwalk area. In addition to providing for these public easements, Condition of Approval No. 48 would require the applicant to make the hotel's visitor serving amenities (restaurant, spa, beach bar, beach, etc.) non-exclusive and fully open to the public. Therefore, the proposed amended project would not conflict with easements required for public access and this finding can be made.

2.3 Additional Findings Required for Preliminary or Final Development Plans for Sites Zoned C-V (Visitor Serving Commercial)

In addition to the findings for Development Plans set forth in Section 35-174.7 (Development Plans), no Preliminary or Final Development Plan shall be approved for property zoned or to be rezoned to Resort/Visitor Serving Commercial unless the Planning Commission also makes the following findings:

2.3.1 *For development in rural areas as designated on the Coastal Land Use Plan Maps, the project will not result in a need for ancillary facilities on nearby land, i.e., residences, stores, etc.*

The project site is located in a designated urban area. Therefore, this finding does not apply.

2.3.2 *For developments surrounded by areas zoned residential, the proposed use is compatible with the residential character of the area.*

The project site is partially bounded by residentially zoned property to the east and west. However, the Pacific Ocean and a Transportation Corridor occur to the south of the property (and through the southern end of the property), and South Jameson and Highway 101 occur to the north of the property. Therefore, the subject property is not "surrounded" by areas zoned residential and this finding does not apply.

2.4 Additional Findings Required for Approval of Development Plans for sites in the Resort/Visitor Serving (C-V) Zone District within the Montecito Community Plan Overlay District

2.4.1 *Improvements to resort visitor serving hotels have been designed to be consistent with the existing historic "Cottage Type Hotel" tradition of the early days of Montecito.*

The original Miramar, along with the Biltmore and the San Ysidro Ranch are the resort visitor-serving hotels in Montecito upon which the existing “Cottage Type Hotel” tradition was based. Each of these three resorts includes both large structures for congregation (restaurants, conference rooms, etc.) and smaller buildings or cottages for sleeping. Consistent with the historic template of Montecito’s resort visitor serving hotels, the proposed amended project includes large structures for congregation (lobby, restaurant, spa), two-story lanai guestroom buildings and single story cottage structures with six or fewer keys. Of the total number of 18 structures devoted to guest rooms, 13 (or more than 2/3) are single story cottages with six or fewer rooms. Of the total number of 186 keys, 55 are located in the cottages. Because the project includes small cottages, landscaping is adequate to screen and beautify the proposed development and surface parking lot, over half of all parking is to be located underground and so hidden from public view, and the Montecito Board of Architectural Review (MBAR), in their conceptual level review of the project on December 17, 2007, confirmed the appropriateness of the project’s mass, bulk and scale, the project can be found consistent with the “Cottage Type Hotel” tradition. In order to further ensure the project meets the definition of “Cottage Type Hotel”, the applicant, at the express direction of the Montecito Planning Commission, would return to the Commission for a detailed review/discussion of the project architecture as directed at their October 8, 2008 hearing prior to return to the MBAR. Therefore, this finding can be made.

2.4.2 *The facility is compatible with the mass, bulk, scale, and design with the residential character of the surrounding neighborhoods.*

As discussed in Section 6.1 of the staff report dated February 4, 2011 and hereby incorporated by reference, the proposed amended project would be compatible with the mass, bulk, scale, and design with the residential character of the surrounding neighborhood. The project includes the following measures intended to mitigate potential aesthetic impacts to a less than significant level and ensure consistency with Montecito Community Plan (MCP) visual policies: 1) landscaping shall be compatible with the character of the surroundings and the architectural style of development on the site and shall be maintained throughout the life of the project; 2) the provision of landscape and maintenance performance securities; and 3) the design, scale, and character of the approved project architecture and landscaping shall be compatible with development in the vicinity and the applicant shall submit the Landscape Plan and final architectural drawings of the approved project for review and approval by the Montecito Board of Architectural Review.

The approved project was found to be compatible with the mass, bulk, scale, and design with the residential character of the surrounding neighborhood. With respect to the project’s building mass along South Jameson Lane, the proposed amended project would represent an improvement over the approved project because the Ballroom building has been eliminated. The Ballroom building was located in the northeastern corner of the site

adjacent to Jameson Lane under the approved plan but has been eliminated under the proposed amended plan where a surface parking lot would take its place. By removing the Ballroom building, mass along Jameson Lane would be reduced and the proposed amended project would be more compatible with the established physical scale of the area than the approved project.

In order to provide for project compatibility with the surrounding neighborhood in terms of bulk and scale, each of the guest room buildings located in the western and southwestern portions of the property adjacent to residentially developed properties is limited in size and to one story in height. The previous two-story guest room building No. 9 included with the approved project has been converted to the Hotel restaurant (reduced to one story in height) and moved to the east side of the pool, away from the residential neighborhood located on Miramar Ave. west of the property. Additionally, aAll two-story buildings included with the project are located in the northern portions of the site adjacent to Jameson Lane and ~~along near~~ the property's beach frontage where adjacent buildings are also two stories in height. Limiting the size and height of these buildings adjacent to residential uses will ensure visual impacts of the proposed amended project remain less than significant and that the project would be consistent with the visual resource protection policies of the Coastal Land Use Plan and Montecito Community Plan. Therefore, this finding can be made.

2.5 Development Plan Modification Findings

Section 35-174.8 of Article II, Coastal Zoning Ordinance, for Development Plans, stipulates that the decision-maker of a Development Plan (e.g., Montecito Planning Commission) may modify the building height limit, distance between buildings, setback, yard, parking, building coverage, or screening requirements specified in the applicable zone district when the decision-maker finds that the project justifies such modifications. As stated above in the project description the applicant is requesting modifications to height limits, setbacks, and parking requirements. Each of these modifications was included with the approved project. Specifically, the following modifications are requested for the proposed amended project:

- A modification to the 38 foot height limit (35 feet + 3 more feet for buildings with 4 in 12 roof pitches) for the Main Building is being requested.

The proposed height for this building is 46 feet above existing grade.

- A modification to the height limit required in Section 35-208.2(1) of the Montecito Community Plan Overlay District, which states the following:

Two thirds of any new or reconstructed buildings which are guest rooms shall be limited to 16 feet in height, except as provided for pursuant to Division 10,

Nonconforming Structures and Uses and Section 35-214, "Restoration of Damaged Nonconforming Buildings and Structures" of Division 15.

None of the 18 buildings proposed which will contain guest rooms would be limited to 16 feet in height above existing grade. However, more than two thirds (13 buildings, or 72.2 percent) of the 18 buildings with guestrooms will be one story buildings from finished grade. Therefore, a modification is being requested for this ordinance requirement.

- A modification to the front, rear, and side yard setbacks for a number of buildings as described in the project description.
- A modification to the number of parking spaces required for the project. The County's parking standards contained in Article II, Coastal Zoning Ordinance require a total of 632 parking spaces onsite to accommodate the proposed amended project. However, a total of 494 parking spaces would be provided for conjunctive use, for a total of 138 spaces fewer than ordinance requirements.

2.5.1 *The review authority finds the project justifies such modifications*

Because each modification would help to meet the overall project objectives of 1) to create site uniformity and site layout through abandonment of Miramar Avenue, 2) to create a cohesive site design of bungalows, cottage clusters and other buildings around resort amenities, 3) expansive landscaping grounds and paths to serve guests and visitors, and 4) to increase public beach parking and access to and through the property, these modifications would aid in good design of the site. Please see Section 6.2 of the staff report dated February 4, 2011, hereby incorporated by reference, for a more detailed discussion on the justification of the modification related to parking provisions.

Specifically, approval of these requested modifications would not hinder emergency access to or within the hotel site. A majority of the existing hotel buildings encroach into setbacks adjacent to a residential parcel owned by the Miramar or the UPRR as did the approved Caruso Plan. Approval of the requested modifications would not change the established character of the neighborhood, nor significantly affect the project's consistency with applicable policies of the Coastal Plan, the Montecito Community Plan, or the purpose and intent of the applicable zone district. Therefore, the modifications are justified and this finding can be made.

2.6 Conditional Use Permit Amendment Findings

Pursuant to Section 35-172.11.2.b, all of the following additional findings must be made:

2.6.1 *In addition to the findings required for approval of a Conditional Use Permit set forth*

in this Section 35-172.8, the Amendment is consistent with the specific findings of approval, including CEQA findings, that were adopted when the Conditional Use Permit was previously approved.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

The proposed amended project is consistent with the specific findings of approval, including the CEQA findings that were adopted when the Conditional Use Permits were previously approved by the Board of Supervisors on December 9, 2008. Project changes include elimination of one floor of underground parking, removal of the Ballroom building, removal of the beach/tennis club building, a reduction in the number of hotel rooms from 192 to 186, relocation of the employee dwellings from the Ballroom building into Lanai building No. 44 and a reduction in site grading quantities. A previously proposed retaining wall of 10-feet in height has been removed from the project and substantial filling of the Oak Creek floodplain has been dramatically reduced in the amended project. Such changes have reduced the project's scope such that it continues to be consistent with the original findings of approval. Therefore, this finding can be made.

2.6.2 The environmental impacts related to the proposed change are determined to be substantially the same or less than those identified for the previously approved project.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

Environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project. Project changes include elimination of one floor of underground parking, removal of the Ballroom building, removal of the beach/tennis club building, a reduction in the number of hotel rooms from 192 to 186, relocation of the employee dwellings from the Ballroom building into Lanai building No. 44 and a reduction in site grading quantities. A previously proposed

retaining wall of 10-feet in height has been removed from the project and substantial filling of the Oak Creek floodplain has been dramatically reduced in the amended project. Such changes have reduced project impacts in several environmental impact areas.

A new surface parking lot to be located in the eastern portion of the site as part of the proposed amended project was not included with the approved project. The parking lot will be surfaced with permeable materials to allow stormwater infiltration and screened by new plant materials. In order to provide adequate screening, the lot would be surrounded by a combination of landscaped berms, trees, bushes, and hedges to essentially hide the lot from view from hotel guests to the west, from Jameson Avenue to the north and from the residential properties to the east. Internally the parking lot would be broken up by hedges placed on islands, breaking the lot up into smaller sections. The mitigation measure limiting night lighting included with the approved project has been amended to apply to the new surface parking lot and would require that these lights will be dimmed at 10 pm to reduce light intrusion on adjacent properties.

On a long-term basis, the buildings included with the proposed amended project would continue to include the same features intended to attenuate interior noise as those included with the approved project. Also, the proposed amended project would include similar noise-generating uses (i.e. events, beach events, use of the onsite pools and other outdoor amenities, etc.) affecting surrounding properties as those included with the approved project. Specifically, the pool bar included with the approved project would be replaced by a one-story restaurant building under the proposed amended project. As with the approved project, the pool/restaurant area would be a gathering place for patrons, and thus, a point source for noise generation. However, as was the pool bar, the restaurant would be located in the center portion of the site, away from the surrounding residential neighborhood. As such, operational impacts related to noise would be substantially the same or less than those generated under the approved project.

The approved project included filling of the Oak Creek floodplain in the eastern portion of the site in order to develop the previously approved Ballroom building. Such filling would have resulted in the loss of approximately 7.6 acre-feet of storm water ponding volume upstream of the railroad tracks. The proposed amended project would remove the Ballroom building and includes a reduction in the amount of fill in the eastern portion of the site (approximately 12,500 cubic yards less than the approved project) resulting in a reduction of lost stormwater ponding volume in the Oak Creek floodplain to approximately 4.0 acre-feet. According to the *Drainage Evaluation of Revised Miramar Grading Plan Compared to Approved Miramar Grading Plan* prepared by Craig Steward, P.E., CFM and dated December 22, 2010, "Because of the lowered site profile at the easterly end of the property next to Oak Creek, there will be more storage volume available for Oak Creek peak flows upstream of the UPRR Railroad." Because more stormwater could be stored in the floodplain of Oak Creek onsite during flood events, impacts associated with proposed amended project development in the floodplain would be less than the approved project.

Therefore, environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project and this finding can be made.

2.7 Conditional Use Permit Findings

Pursuant to Section 35-172.8, a Conditional Use Permit shall only be approved or conditionally approved if decision-makers first make all of the following findings:

2.7.1 That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

The project site was found to be adequate in size, shape, location, and physical characteristics to accommodate the density and level of development included with the approved project. The proposed amended project would be smaller in scale in terms of both physical development and use levels. Therefore, this finding can be made.

2.7.2 That adverse environmental impacts are mitigated to the maximum extent feasible.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

As discussed in the environmental review documents [Environmental Impact Report (08EIR-00000-00003), Mitigated Negative Declaration (00-ND-003) and Addendum dated December 9, 2008] for the approved project, and incorporated herein by reference, adverse impacts anticipated to all issue areas except for historic resources have been mitigated to less than significant levels (Class II impacts). Project-specific and

cumulative impacts on historic resources would be adverse, unavoidable, and cannot be fully mitigated (Class I impact). Statements of Overriding Consideration are required for these impacts and were made by the Board of Supervisors on December 9, 2008 for the previously approved project. As with the approved project, the proposed amended project would demolish and remove all existing buildings, including those found to be historic.

The Addendum for the proposed amended project dated February 23, 2011, to the CEQA documentation package for the approved project, confirms that the proposed project would not result in changes to, or increases in, the severity of impacts. All previously adopted mitigation measures would apply to the proposed amended project. Therefore, impacts associated with the proposed amended project are reduced to the maximum extent feasible.

A Structural Conditions Report was prepared for the cottages and out buildings on the Miramar property by Holmes Culley (March 19, 2007 and April 15, 2008), which determined that these buildings would either be completely unsalvageable structurally due to extensive water damage, weathering, and other forms of decay, or would need to have their exteriors completely replaced due to termite and severe mold issues. Based on the Holmes Culley reports, repair of these historically significant buildings onsite would not be feasible without completely destroying the character-defining features that determine their historical significance (i.e., shingles, clapboard, skirting boards rafter tails, gable vents, and any remaining multi-paned windows). The findings of these reports were verified by the County's Building Official.

Mitigation measure HIST-1 (Condition No. 32) requires that each historical structure be completely documented following the Secretary of the Interior's HABS (Historic American Buildings Survey)/HAER (Historic American Engineering Record) procedures and methods. The applicant has completed this condition by delivering to P&D a complete historical documentation package for archival at the Gledhill Library. While this condition has been satisfied, there are no other known feasible mitigation measures to preserve the character-defining features of the buildings and demolition of all of the existing historically significant structures would be a permanent loss to the historic resource.

Regarding the "Miramar" neon roof sign, neon pole sign, and sandstone caps, implementation of the mitigation measures contained in 00-ND-003 (Conditions of Approval 31, 32 & 85) for the preservation of these features are still feasible and would be implemented for the proposed amended project.

The Final SEIR, 08EIR-00000-00003, prepared for the approved project evaluated three alternatives to the project as follows: (1) the No Action Alternative, i.e., continued site vacancy or the approved Schragger Plan (e.g., previously approved project from July 1, 2002), (2) Alternative 1 - Replacement of Historically Significant Features on Existing Cottages and "Out Buildings" and Repair of the Poolside Rooms, and (3) Alternative 2 -

Relocation of Historically Significant Structures. Of these, the only alternative that was determined to be feasible was the No Action Alternative. However, it was determined to result in an equivalent permanent loss of historic structures similar to the approved project since the existing structures would suffer continuing decay. Therefore, because there are no feasible alternatives for preserving historic structures onsite and reducing impacts to less than significant (Class 1), these resources are being preserved to the maximum extent feasible without prohibiting all development of the site. Therefore, adverse impacts are mitigated to the maximum extent feasible for the proposed amended project and this finding can be made.

2.7.3 *That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.*

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

As discussed in Section 6.1 of the staff report dated February 4, 2011 for the proposed amended project, and incorporated herein by reference, the nearby streets and highways are of adequate capacity and design to accept the traffic anticipated to be generated by the proposed amended project. As such, the proposed amended project would not adversely affect the capacity of the nearby roadways and intersections. In order to support these conclusions, the applicant has provided an updated "Trip Generation Analysis" prepared by Associated Transportation Engineers dated January 5, 2011. The analysis concludes that the reduced project will generate fewer trips than the approved project and therefore, will not generate significant impacts to the surrounding street network. Therefore, this finding can be made.

2.7.4 *That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.*

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-

00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

As discussed in Section 6.1 of the staff report dated February 4, 2011 for the proposed amended project, and incorporated herein by reference, there are adequate public services in place to serve the proposed amended project including fire protection, water supply, sewage disposal, and police protection. The proposed amended project would continue to be served by the Montecito Water District (Water Service Letter dated July 29, 2008), the Montecito Sanitary District (Service and Condition Letter dated October 2, 2008) and the Montecito Fire Protection District. Therefore, this finding can be made.

2.7.5 *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.*

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

The project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood. Services would be provided by the appropriate public service entity including the Montecito Sanitary District, the Montecito Water District and the Montecito Fire Protection District. The existing railroad crossing on the east side of the property would be upgraded as part of the project resulting in a safer crossing for residents who use this access and live east of the Miramar property along the beach. With implementation of the project, the currently vacant and decrepit site would be redeveloped into a vibrant and visually pleasing amenity for the community. Redevelopment of the site would also actively discourage trespassing and vandalism.

The proposed amended project includes several reductions from the approved project which would aid in its continued compatibility with the surrounding neighborhood including removal of the Ballroom Building and relocation of the Ballroom use into the Main Building, removal of the Beach & Tennis Club building, a new landscaped parking lot lower in elevation than the adjacent Jameson Lane and increased views across the site. During their conceptual review of the approved project, the MBAR provided positive comments about its siting, grading and landscaping, confirming their assessment that it will be compatible with the surrounding neighborhood. In order to ensure the project's consistency with "Cottage Style Hotel" as defined in the Montecito Community Plan,

Condition of Approval No. 87 would require the project to return to the Montecito Planning Commission prior to return to the MBAR for a discussion regarding the project's consistency with "Cottage Style Hotel".

As with the approved project, the proposed amended project would be compatible with the established physical scale of the surrounding area. The project includes the following measures intended to mitigate potential aesthetic impacts to a less than significant level and ensure consistency with Montecito Community Plan (MCP) visual policies: 1) landscaping shall be compatible with the character of the surroundings and the architectural style of development on the site and shall be maintained throughout the life of the project; 2) the provision of landscape and maintenance performance securities; and 3) the design, scale, and character of the approved project architecture and landscaping shall be compatible with development in the vicinity and the applicant shall submit the Landscape Plan and final architectural drawings of the approved project for review and approval by the Montecito Board of Architectural Review.

Identical to the approved project, in order to provide for project compatibility with the surrounding neighborhood in terms of bulk and scale, each of the guest room buildings of the proposed amended project to be located in the western and southwestern portions of the property adjacent to residentially developed properties are limited in size and to one story in height. The previous two-story guest room building No. 9 included with the approved project has been converted to the Hotel restaurant (reduced to one story in height) and moved to the east side of the pool, away from the residential neighborhood located on Miramar Ave. west of the property. Additionally, aAll two-story buildings included with the project are located in the northern portions of the site adjacent to Jameson Lane and ~~along near~~ the property's beach frontage where adjacent buildings are also two stories in height. Limiting the size and height of these buildings adjacent to residential uses will ensure visual impacts of the proposed amended project remain less than significant and that the project would be consistent with the visual resource protection policies of the Coastal Land Use Plan and Montecito Community Plan.

The approved project included filling of the Oak Creek floodplain in the eastern portion of the site in order to develop the previously approved Ballroom building. Such filling would have resulted in the loss of approximately 7.6 acre-feet of storm water ponding volume upstream of the railroad tracks. The proposed amended project would remove the Ballroom building and includes a reduction in the amount of fill in the eastern portion of the site (approximately 12,500 cubic yards less than the approved project) resulting in a reduction of lost stormwater ponding volume in the Oak Creek floodplain to approximately 4.0 acre-feet. According to the *Drainage Evaluation of Revised Miramar Grading Plan Compared to Approved Miramar Grading Plan* prepared by Craig Steward, P.E., CFM and dated December 22, 2010, "Because of the lowered site profile at the easterly end of the property next to Oak Creek, there will be more storage volume available for Oak Creek peak flows upstream of the UPRR Railroad." Because more stormwater could be stored in the

floodplain of Oak Creek onsite during flood events, impacts associated with proposed amended project development in the floodplain would be less than the approved project. Therefore, this finding can be made.

2.7.6 That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

As discussed in sections 6.1 and 6.2 of the staff report dated February 4, 2011 and hereby incorporated by reference, the project would be consistent with all applicable polices contained in the Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan and with the applicable provisions of the Coastal Zoning Ordinance. The project would have adequate services and resources in place to serve the proposed hotel and visitor serving commercial uses. Structural development would be heavily screened by proposed landscaping materials to minimize visibility from public viewing areas along the Highway 101 corridor to the extent feasible. Therefore, this finding can be made.

2.7.7 That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.

The proposed amended project is designated as an urban area, therefore, this finding does not apply.

2.7.8 That the project will not conflict with any easements required for public access through, or public use of the property.

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

An existing, recorded lateral access easement across the Miramar property on the beach at least 20 feet from the water line for public access would remain in effect at all times (except for when the water has reached the edge of the boardwalk). Although the Miramar Hotel would have use of the area of sand between the boardwalk and the water, at no time would any hotel activity be allowed to interfere with public use of this 20-foot easement. In addition, Condition of Approval No. 49 would require recordation of two vertical public access easements across the property: 1) Across the proposed new fire lane through the western portion of the site; and 2) across the existing access road on the east side of the Main Building connecting to the lateral beach access within the boardwalk area. In addition to providing for these public easements, Condition of Approval No. 48 would require the applicant to make the hotel's visitor serving amenities (restaurant, spa, beach bar, beach, etc.) non-exclusive and fully open to the public. Therefore, the proposed amended project would not conflict with easements required for public access and this finding can be made.

2.7.9 *That the proposed use is not inconsistent with the intent of the zone district.*

The proposed amended project includes four amended Conditional Use Permits (CUP) for: 1) 11AMD-00000-00002 amended 07CUP-00000-00045 for hotel improvements in the Transportation Corridor Zone District (within the Union Pacific railroad right-of-way); 2) 11AMD-00000-00003 amended 07CUP-00000-00046 for a 10-ft. high sound wall located in the front yard setback of South Jameson Lane; 3) 11AMD-00000-00004 amending 07CUP-00000-00047 for four employee dwellings; and 4) 11AMD-00000-00005 amending 08CUP-00000-00005 for repairs to an existing seawall. The required findings are the same for each CUP and apply to each CUP.

For amended Conditional Use Permit 11AMD-00000-00002, for hotel improvements in the Transportation Corridor (TC) zone district, the purpose of the TC zone district is to "preserve and protect established and proposed transportation corridors, to regulate land uses within and adjacent to such corridors, and to provide uniform TC development standards." The intent of the zone district is to apply local authority over matters of public health, safety and welfare, land use, and zoning" and "to ensure that development within transportation corridors is consistent with the Coastal Plan and other elements of the Comprehensive Plan." Finally, it is the intent of the zone district to accommodate other priority uses within transportation corridors to the extent feasible, such as recreational access to and along the coast and use of the corridors for bikelanes, and routes for pipelines and cables for example. The proposed amended project would involve construction of drainage improvements, a fire access lane, a guard house, and landscaping within the TC zoned property owned by the Union Pacific Railroad. While not granting an express authorization, the UPRR confirms that it has worked closely with the applicant and finds the preliminary plans acceptable (letter of May 13, 2008); a condition of approval is included requiring the UPRR's express authorization prior to

issuance of the first LUP for the proposed amended project. In addition, these improvements would help ensure the safe passage of hotel visitors and the public to the beach. Therefore, they would be consistent with the intent of the zone district to maximize beach access in these zone districts. Therefore, this finding can be made.

The purpose of the C-V zone district is “to provide for tourist recreational development in areas of unique scenic and recreational value, while providing for maximum conservation of resources of the site through comprehensive site planning” and the intent of the zone district is to “maximum public access, enjoyment, and use of an area’s scenic, natural, and recreational resources while ensuring preservation of such resources.” For amended Conditional Use Permits 11AMD-00000-00003, 11AMD-00000-00004, and 11AMD-00000-00005, construction of a 10-foot sound wall, construction of four employee dwellings, and repairs to a seawall in the C-V zone district would all enhance the enjoyment of the property by the public, hotel guests, and employees. Therefore, these CUPs would be consistent with the intent of the zone district and this finding can be made.

2.8 Coastal Development Permit Findings

Pursuant to Section 35-169.5, a Coastal Development Permit shall only be issued if all of the following findings are made:

2.8.1 That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161 (Nonconforming Use of Land, Buildings & Structures).

As discussed in sections 6.1 and 6.2 of the staff report dated February 4, 2011 and hereby incorporated by reference, the project would be consistent with all applicable polices contained in the Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan and with the applicable provisions of the Coastal Zoning Ordinance. The project would have adequate services and resources in place to serve the proposed hotel and visitor serving commercial uses. Structural development would be heavily screened by proposed landscaping materials to minimize visibility from public viewing areas along the Highway 101 corridor to the extent feasible. Therefore, this finding can be made.

2.8.2 The proposed development is located on a legally created lot.

The Miramar property comprises ten legally created parcels plus one parcel owned by the Union Pacific Railroad as described below according to a survey of the property completed by Psomas on February 13, 2007:

Parcels One, Two, Three, and Ten: Part of the Ocean Side Subdivision per map recorded in Book 1, Page 29 of the Maps and Surveys in the Office of the Recorder.

Parcels Four, Five, and Six: Part of the Outside of the Pueblo Lands of the City of Santa Barbara

Parcel Seven: Access and utility easement reserved by the owner in deeds recorded: (1) December 23, 1946 as instrument no. 18903 in Book 718, Page 72, (2) October 7, 1952 as instrument no. 15696 in Book 1101, Page 304, (3) December 24, 1952 in instrument no. 20074 in Book 1118, Page 47, and (4) December 14, 1953 as instrument no. 20027 in Book 1201, Page 146.

Parcel Eight: Described as “A parcel of real property situated in Montecito, County of Santa Barbara, State of California.”

Parcel Nine: Described as “A parcel of real property situated in Montecito, County of Santa Barbara, State of California.”

Parcel Eleven: Easement reserved by the owner for maintenance, vehicular, pedestrian, and disabled access, parking, building encroachment, and beautification with the Union Pacific Railroad’s parcel that is owned in fee.

2.8.3 *That the subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).*

All existing development on the project site is currently permitted and in conformance with applicable County ordinance provisions. As such, there are no current zoning violations associated with the property and no enforcement fees are required to be paid. Therefore, this finding can be made.

2.8.4 *The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.*

With respect to public views, the proposed amended project would represent an improvement over the approved project by incorporating several changes:

- Views toward the ocean from South Jameson Lane in the western and central portions of the property would remain essentially the same as exist today (i.e., mostly obscured by structures and landscaping) while views across the eastern portion of the

property have been improved with removal of the Ballroom Building. As with the approved plan, views into the site from South Jameson Lane throughout the remainder of the property would be partially blocked by the new guestrooms, Main Building and soundwall.

- The Beach & Tennis Club building, which was previously approved at a height of 26 feet and to be located in the center portion of the site, has been removed from the proposed amended project thus opening views through the property from both the South and North.

Additional features of the proposed amended project that would improve scenic views to and from the site include increased and enhanced landscaping, replacement of existing asphalt parking areas with new permeable surfaces and the undergrounding of utility lines on portions of the site where the lines conflict with new construction.

Grading for the proposed amended project would essentially level the existing rolling site topography starting at the western portion of the property with four feet of cut and ending at the eastern end of the property where the surface parking lot would gently feather into the existing topography. The proposed amended project would alter the site topography such that the rolling grounds within the site would be lost. Regardless, the site contour as viewed from the beach would appear the same as it does currently. The riparian corridor of Oak Creek along the project site would be planted with restoration plantings which would have the added benefit over time of mitigating private views from the east of the surface parking lot. Finally, the proposed amended project includes an approximate 200 foot view corridor through the South Jameson Lane elevation between the easterly end of the sound wall and the westerly corner of the Main Building. As a result, impacts to public views of the changed site topography would be less than significant.

The proposed amended project includes the elimination of one existing oceanfront building, thereby opening up the beach view northward into the resort grounds and beyond to the Santa Ynez Mountains. Specifically, the proposed amended project includes a 35-foot wide opening between the Oceanfront Building 02 and the proposed Oceanfront Building 01. While a snack bar structure would be located within this opening, its height would be limited to 9 feet above the finish floor elevation of the boardwalk in order to allow views through the opening from the beach to the Santa Ynez Mountains.

Improvements to the boardwalk included with the proposed amended project would be made in place such that no structures would be located closer to the ocean than exist today. As such, views along the sandy beach would be unaffected by project implementation.

With mitigation measures requiring landscaping that is compatible with the neighborhood, preliminary and final Board of Architectural Review approval of the structures and landscaping, and performance securities to ensure installation and maintenance of landscaping, visual impacts of the proposed amended project will remain less than significant. Thus, the proposed amended project will be consistent with the visual resource protection policies of the Coastal Land Use Plan and Montecito Community Plan. Therefore, this finding can be made.

2.8.5 The development is compatible with the established physical scale of the area.

As discussed in Section 6.1 of the staff report dated February 4, 2011 and hereby incorporated by reference, the proposed amended project would be compatible with the established physical scale of the area. The project includes the following measures intended to mitigate potential aesthetic impacts to a less than significant level and ensure consistency with Montecito Community Plan (MCP) visual policies: 1) landscaping shall be compatible with the character of the surroundings and the architectural style of development on the site and shall be maintained throughout the life of the project; 2) the provision of landscape and maintenance performance securities; and 3) the design, scale, and character of the approved project architecture and landscaping shall be compatible with development in the vicinity and the applicant shall submit the Landscape Plan and final architectural drawings of the approved project for review and approval by the Montecito Board of Architectural Review.

With respect to the project's building mass along South Jameson Lane, the proposed amended project would represent an improvement over the approved project because the Ballroom building has been eliminated. The Ballroom building was located in the northeastern corner of the site adjacent to Jameson Lane under the approved plan but has been eliminated under the proposed amended plan where a surface parking lot would take its place. By removing the Ballroom building, mass along Jameson Lane would be reduced and the proposed amended project would be more compatible with the established physical scale of the area than the approved project.

In order to provide for project compatibility with the surrounding neighborhood in terms of bulk and scale, each of the guest room buildings located in the western and southwestern portions of the property adjacent to residentially developed properties is limited in size and to one story in height. The previous two-story guest room building No. 9 included with the approved project has been converted to the Hotel restaurant (reduced to one story in height) and moved to the east side of the pool, away from the residential neighborhood located on Miramar Ave. west of the property. Additionally, aAll two-story buildings included with the project are located in the northern portions of the site adjacent to Jameson Lane and ~~along near~~ the property's beach frontage where adjacent buildings are also two stories in height. Limiting the size and height of these buildings adjacent to residential uses will ensure visual impacts of the proposed amended project remain less

than significant and that the project would be consistent with the visual resource protection policies of the Coastal Land Use Plan and Montecito Community Plan. Therefore, this finding can be made.

2.8.6 *The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.*

Public access to beaches within the vicinity of the Miramar Hotel is provided through several vertical and lateral access points. An existing 20-foot lateral easement is recorded and in place which provides the public access over the hotel's full beach frontage. The southern boundary of the public lateral easement is the water's edge; as a result, the 20 foot lateral easement varies in location with the change in tide line. However, as a matter of State law, the public always maintains the right to access the beach below the mean high-tide line regardless of where the water's edge is located at any moment in time. There is existing public vertical access from Eucalyptus Lane about 500 feet west of the Miramar stairs to the beach, as well as from Posilipo Lane, located approximately 1,500 feet to the east.

The project provides 68 public parking spaces on Eucalyptus Lane and South Jameson Lane. The project also includes a commitment for the dedication of two vertical public access easements through the site from Jameson Lane down to the ocean. These easements would provide access through the Miramar Hotel property along a curving pathway (which would also serve as the fire access lane) replacing the vacated portion of Miramar Avenue and connecting to the remaining portion of Miramar Avenue for easy access to Eucalyptus Lane. Along this fire access lane, coastal access signs would be posted clearly directing people to the beach area. In addition, public access would be provided down the private road east of the Main Building through the property and toward the beach bar area where a stairway to the beach would be located as an additional accessway. Draft legal descriptions for the proposed easements have been provided to the County and would be recorded prior to issuance of the Land Use Permit. Therefore, the project is consistent with applicable public access and recreation policies and this finding can be made.

2.9 Montecito Community Plan Overlay Findings

2.9.1 *In addition to the findings that are required for approval of a development project (as development is defined in the Santa Barbara County Coastal Plan), as identified in each section of Division 11 – Permit Procedures of Article II, a finding shall also be made that the project meets all the applicable development standards included in the Montecito Community Plan of the Coastal Land Use Plan.*

As discussed in Sections 6.1 and 6.2 of the staff report dated February 4, 2011 and incorporated herein by reference, the proposed amended project would be consistent with the policies and development standards contained in the Montecito Community Plan and the Coastal Land Use Plan. Therefore, this finding can be made.

2.9.2 *For projects requiring a Major Conditional Use Permit, a finding shall be made that the project will not potentially result in traffic levels higher than those anticipated for the parcel by the Montecito Community Plan and its associated environmental documents; or if the project will result in higher traffic levels, that the increase in traffic is not large enough to cause the affected roadway(s) and/or intersection(s) to exceed their designated acceptable capacity levels at buildout of the Montecito Community Plan or that road improvements included as part of the project description are consistent with provisions of the Comprehensive Plan (specifically the Montecito Community Plan) and are adequate to fully offset the identified potential increase in traffic.*

As discussed in the project trip generation studies (*Site Access, Circulation and Parking Evaluation for the Miramar Hotel and Bungalows Project*, ATE (Scott Schell) March 11, 2008 and updated on January 5, 2011), and both incorporated herein by reference, the proposed amended project would generate 54 fewer Average Daily Trips (ADT), 4 fewer A.M. peak hour trips, and 4 fewer P.M. peak hour trips than the approved project. These trip generation rates are higher than those anticipated in the Montecito Community Plan EIR for the Miramar property. However, the traffic study prepared for the current project found that it would not significantly affect the capacity and design of nearby streets and intersections and would not cause area roadway(s) and/or intersection(s) to exceed their designated acceptable capacity levels under a peak demand scenario. The study concluded that project-specific and cumulative impacts on traffic would be less than significant. Therefore, this finding can be made.

2.9.3 *For projects subject to discretionary review, a finding shall be made that the development will not adversely impact recreational facilities and uses.*

Existing recreational uses are limited to use of Miramar Beach. As discussed in Section 6.1 of the staff report dated February 4, 2011 for the proposed amended project and incorporated herein by reference, the proposed amended project would enhance recreation in the project vicinity, including beach use, and beach access and parking and the project would be consistent with the policies of the County's Comprehensive Plan, including the public access and recreation policies of the Coastal Land Use Plan and Montecito Community Plan. The project includes conditions which require the applicant to provide two vertical public beach access routes through the property and full non-exclusive use of the property's visitor-serving amenities (restaurant, spa, beach bar, beach, etc.). The project would also provide for 68 public parking spaces intended for beach users along the property frontages on Eucalyptus Lane and Jameson Lane. Therefore, the project will not adversely impact recreational facilities and uses and this finding can be made.

Miramar Beach Resort & Bungalows Amended Project

Case Nos. 10AMD-00000-00010, 11CDH-00000-00001, 11AMD-00000-00002, 11AMD-00000-00003, 11AMD-00000-00004, 11AMD-00000-00005

Attachment 1: Findings

March 15, 2011

Page 27

G:\GROUP\Permitting\Case Files\AMD\10 cases\10AMD-00000-00010 Miramar\BOS 3.15.11\Att 1 Findings 3.15.11.docx