



**BOARD OF SUPERVISORS  
AGENDA LETTER**

**Agenda Number:**

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

**Submitted on:**  
**(COB Stamp)**

**Department Name:** Planning and Development  
**Department No.:** 053  
**Agenda Date:** December 10, 2024  
**Placement:** Departmental  
**Estimated Time:** 2 hrs. 10 min.  
**Continued Item:** No  
**If Yes, date from:** N/A  
**Vote Required:** Majority

**TO:** Board of Supervisors  
**FROM:** Department Director: Lisa Plowman, (805) 568-2086  
Contact Info: Travis Seawards, Deputy Director, (805) 568-2518  
**SUBJECT:** Appeals of the County Planning Commission Approval of the Miramar Acquisition Co., LLC – Housing – Mixed-Use Development Project, Case Nos. 24APL-00027 – 00031, 24RVP-00050, 24RVP-00051, 24AMD-00008, and 24CDP-00077, First Supervisorial District

**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

Staff recommends that the Board of Supervisors take the following actions to deny the appeals and approve the project:

- a) Deny the appeals, Case Nos. 24APL-00027, 24APL-00028, 24APL-00029, 24APL-00030, and 24APL-00031;
- b) Make the required findings for approval of the project, Case Nos. 24RVP-00050, 24RVP-00051, 24AMD-00008, and 24CDP-00077, including CEQA findings included as Attachment 1 to this Board Letter;
- c) Determine the project is statutorily exempt from CEQA pursuant to CEQA Section 21159.25, as outlined in the Notice of Exemption included as Attachment 3 to this Board Letter; and
- d) Grant *de novo* approval of the project, Case Nos. 24RVP-00050, 24RVP-00051, 24AMD-00008, and 24CDP-00077, subject to the conditions of approval included as Attachment 2 to this Board Letter.

**Summary Text:**

Julie and Robert Teufel, Christopher Horner, Hillary Hauser (representing Heal the Ocean), Jordan Sisson (representing UNITE HERE Local 11), and Clifford Gherson, each an Appellant, and hereinafter referred to collectively as Appellants, request a hearing to Consider Case Nos. 24APL-00027, 24APL-00028, 24APL-00029, 24APL-00030, and 24APL-00031, appeals of the County Planning Commission’s decision to approve the Miramar Acquisition Co., LLC – Housing – Mixed-Use Development Project. The appeals were filed on November 12, 2024, in compliance with Section 35-182 of Article II.

Section A of this Board Agenda Letter contains a description of the prior actions related to the project, Section B contains a description of the project scope, and Section C contains the appeal issues and staff's responses. Staff reviewed the appeals and finds the issues raised are without merit.

As discussed in Section 4.1 of the Planning Commission Staff Report (Attachment 10), the project qualifies for processing under the Housing Accountability Act (HAA) because it is a mixed-use development consisting of residential and non-residential uses with at least two-thirds of the proposed square footage designated for residential use. Under the HAA, a housing development project that is consistent with objective general plan, zoning, and subdivision standards and criteria, cannot be disapproved or conditioned to lower density unless the decision-maker finds, supported by a preponderance of the evidence in the record, that the project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact. "Specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete". Under the HAA, the County retains the authority to condition the project to require compliance with applicable standards and policies, but those must be "applied to facilitate and accommodate development at the density permitted on the site and proposed by the development". Additionally, the project must comply with the Coastal Act, as implemented through the County's Local Coastal Plan.

As discussed in Section 4.2 of the Planning Commission Staff Report (Attachment 10), the project is requesting five waivers/reductions through the State Density Bonus Law (SDBL). Pursuant to SDBL, a developer can request waivers or reductions of development standards, as defined in the statute, when those requirements will have the effect of physically precluding the construction of a development at the allowed density. SDBL does not specify a limit on the number of waivers/reductions that can be used on a project. The Applicant is requesting waivers from Article II development standards for floor area ratio, height, number of stories, setbacks, and open space. The Applicant provided justification for each of the requested waivers (Attachment L of Attachment 10). The County must grant requested waivers/reductions of development standards that would physically preclude construction of the project unless the County makes a written finding, based upon substantial evidence that the request would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact, the request would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or the request would be contrary to state or federal law.

Additionally, as discussed in Sections 6.2 and 6.3 of the Planning Commission Staff Report (Attachment 10), the project is consistent with all objective policies in the Santa Barbara County Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan, and with all objective standards set forth in Article II. The information included in the administrative record, including this Board Agenda Letter, supports approval of the project.

**A. Background:**

On May 23, 2024, Miramar Acquisitions Co., LLC, (hereinafter Applicant) submitted an application to allow 34 residential units (eight market-rate units and 26 affordable employee units), and 17,500 square feet of commercial space (15,000 square feet of resort shops and a 2,500-square-foot café). The project was originally heard by the County Planning Commission on October 9, 2024. The project was continued to November 1, 2024, to allow the Montecito Planning Commission to review and make a recommendation to the County Planning Commission. The project was heard by the Montecito Planning Commission on October 18, 2024, however, they were unable to make a recommendation due to a loss in quorum. On November 1, 2024, the project was approved by the County Planning Commission.

On November 12, 2024, five timely appeals of the Planning Commission's approval were filed, citing the following issues as the basis of the appeals:

1. Construction impacts

2. Inadequate CEQA review
3. Traffic and parking issues
4. Greenhouse gas (GHG) impacts
5. Evacuation issues
6. Lack of a fair and impartial hearing
7. Coastal access impacts
8. Flood hazards
9. Inconsistency with the Comprehensive Plan
10. Inconsistency with Article II

Staff reviewed the appeals and finds that the appeal issues raised are without merit. Additionally, staff reviewed the project in accordance with the permit requirements provided in Sections 35-169 (Coastal Development Permits), 35-172 (Conditional Use Permits), and 35-174 (Development Plans) of Article II. Findings for approval of the project application can be made (Attachment 1) as supported by a preponderance of the evidence in the record that the project does not have a specific, adverse impact upon the public health or safety, and the project is consistent with all objective standards and criteria for HAA-eligible projects.

## **B. Proposed Project**

The project is a request for a Revision to Development Plan 14RVP-00000-00063, a Revision to Minor Conditional Use Permit 07CUP-00000-00047, an Amendment to Major Conditional Use Permit 07CUP-00000-00045, and a Coastal Development Permit to approve 54,768 square feet of development in the CV (Visitor Serving Commercial) Zone, consisting of 26 affordable employee apartments, eight market-rate apartments, and 17,500 square feet of commercial space consisting of up to 12 resort shops and a resort café. The proposed development will be located in the existing northwest and northeast parking lots on site. The project also includes development in the Union Pacific railroad right-of-way consisting of parking improvements and associated lighting. A complete project description is included as Condition No. 1 of Attachment 2.

## **C. Appeal Issues and Staff Responses**

The appeal applications (Attachments 4 – 8) contain attachments that outline the appeal issues. Appeal issues have been organized by topic as there is overlap of the appeal issues across all five appellants. The appeal issues and staff's responses are provided below.

### **Appeal Issue No. 1: Construction Impacts**

The Appellants list concerns with impacts from construction of the project, including impacts from dust/air pollution, noise, parking, traffic from construction vehicles, and the potential for cumulative construction impacts due to current Highway 101 construction.

#### **Staff Response:**

There are short-term construction related impacts expected from the project, and there are standard conditions applied to address these impacts. The proposed project is consistent with all objective development standards and policies from Article II and the Coastal Land Use Plan. Consistent with these policies and standards, and as authorized under the HAA, the project is conditioned to reduce potential construction-related impacts to the maximum extent feasible using standard conditions for noise, traffic, parking, and air and water quality (Attachment 2). With implementation of standard conditions, no cumulatively significant construction-related impacts will occur as part of this project. Additionally, the project was reviewed by the Air Pollution Control District, the Montecito Fire Protection District, and Public Works Transportation, and compliance with their condition letters is required by Condition No. 59 of Attachment 2-4. With respect to Highway 101 improvements in the adjacent segment (Segment 4D), all ramp closures are estimated to be

complete by spring of 2026 and all improvements to Highway 101, other than landscaping, are estimated to be complete by fall of 2026.

### **Appeal Issue No. 2: CEQA**

The Appellants state that the CEQA review for the project is inadequate. They list the following reasons why the CEQA Section 21159.25 statutory exemption should not apply:

- a. **The project site is greater than five acres.** The Appellants claim that the entire 15.99-acre resort site should be included as the “project site”, because the project relies on the entire resort site for zoning consistency (i.e., needing an oceanfront location to operate), and the uses on the resort site cannot operate independently of each other due to relying on a shared parking program.
- b. **The project was piecemealed.** The Appellants state that the project was “piecemealed”, or divided into smaller segments to avoid doing an Environmental Impact Report, because it was separated from the remainder of the resort and did not include previous approvals on site such as the retail approved under previous Substantial Conformity Determinations.
- c. **The cumulative impacts from the project are significant.** The Appellants state that the project approved in 2015 for the resort, the Substantial Conformity Determinations for expanded retail uses approved thereafter, and the current project are in the same place and of the same type, and may have a cumulative impact.
- d. **There are unusual circumstances that apply to the project.** The Appellants claim that there is a reasonable possibility of significant effects due to unusual circumstances, including: being located within the Coastal Zone which has increasingly rare public parking; the resort providing significantly fewer parking spaces than required by the ordinance; the northeast parking lot being located in the FEMA Flood Zone; concerns of a repeat of the 2018 debris flow tragedy; and the Board’s prior approval of the existing resort, in which they deliberately allowed only minimized traffic-inducing retail uses at the resort site.
- e. **There are project alternatives available.** The Appellants state that there are project alternatives available that would not reduce the proposed number of housing units, which have not been considered.

### **Staff Response:**

As outlined in the Notice of Exemption, included as Attachment 3, the proposed project has been analyzed pursuant to CEQA Section 21159.25, which provides that eligible mixed-use housing projects are statutorily exempt from CEQA. Pursuant to the evidence provided by the Applicant, staff has determined that the exemption applies and no exceptions to the exemption apply. The following paragraphs respond to the corresponding appeal issues related to CEQA.

- a. **The project site is greater than five acres.** The “project site” for the purposes of environmental review does not include the entire resort site, as it is limited to the area of project development. CEQA does not define “project site,” however, Article II defines a site as “the area of project development that may be located within, or consist of, one or more legal lots or parcels” (emphasis added). The area of project development is limited to the two existing parking lots within the larger parcel and totals only 3.077 acres of project site area, consistent with the Article II definition of a “project site”. The existing development on site will continue to provide parking for the existing uses and will also provide new parking to serve the proposed uses. The Applicant will continue to utilize the shared parking program as modified to incorporate the additional parking spaces. All parking changes will be within the 3.077-acre project site. There will be no changes to the remainder of the resort.
- b. **The project was piecemealed.** Prior development applications for the Miramar property have been appropriately approved pursuant to Article II requirements, and previous applications were properly evaluated under CEQA, and therefore the Appellants’ claim of “piecemeal” CEQA review has no merit. The Applicant submitted requests for minor changes to the site in the form of Substantial Conformity Determinations (SCDs) after the construction of the current resort. Pursuant to Appendix B of Article

II, an applicant can request slight deviations from an approved project subject to the criteria outlined in Article II. Previous SCDs, including an approved SCD that allowed for the conversion of existing resort square footage to resort-serving commercial retail space, were appropriately approved and noticed. The environmental impacts from the SCDs were determined to be substantially the same as those that were previously considered with the original approval and the changes proposed under the SCDs fell squarely within the scope of the prior CEQA documents. Therefore, no new environmental document was required. Those CEQA determinations were not challenged. The Applicant has now requested a new mixed-use housing development project, which falls squarely within the parameters of the statutory CEQA exemption for mixed-use development pursuant to CEQA Section 21159.25, as outlined in detail in Attachment 3.

- c. The cumulative impacts from the project are significant.** The project has been analyzed for compliance with CEQA pursuant to CEQA Section 21159.25, which includes an exception for projects that will result in a cumulatively significant impact. The Appellants claim that the project will have cumulative impacts due to the other existing impacts from the resort site. However, the resort is part of the existing baseline under CEQA. The Applicant provided studies (Transportation, Noise, Air Quality, GHG Emissions, etc.) to evaluate the potential impacts of the project in comparison to the existing baseline conditions and have demonstrated that neither project nor cumulatively significant impacts will occur. No other projects of the same or similar type, in the same place, over time are anticipated because the project is surrounded by existing residential development to the east and west, the US-101 freeway to the north, and additional portions of the resort property and the Pacific Ocean to the south. Other projects of similar type are not located within close proximity to the site (Biltmore Hotel and Music Academy of the West), and are not expected to have significant impacts. The closest project to the Miramar site is the Biltmore Hotel, which is over a mile away, is located adjacent to different Highway 101 on and off-ramps, and is an existing use and no increase in traffic is anticipated as part of their planned improvements. Staff has reviewed the studies provided, which show that the Miramar project would not result in any significant impact, and determined that they have been prepared by the appropriate licensed professionals and meet the standards of the Department.
- d. There are unusual circumstances that apply to the project.** There are no unusual circumstances associated with the project, and there is no substantial evidence in the record to demonstrate that unusual circumstances would impact the environment. It is not uncommon or unusual for a resort to be located in the Coastal Zone. The Applicant provided a robust analysis for potential impacts related to parking, traffic, and flooding, and the appropriate County Departments have reviewed and concurred with the analyses. In terms of parking, there no unusual circumstances expected from the project. A licensed engineer produced a study that evaluated the project and determined that there will be 18 excess spaces over the peak demand. Staff and Public Works reviewed the parking analysis and found it to be consistent with County policies and agreed with the study's analysis. In response to flood concerns, the parcel is located within the FEMA Regulatory Floodplain Zone AE and the FEMA Recovery Map High Hazard Area. As such, the project was reviewed by County Flood Control, and the project complies with all requirements of Chapter 15A of the Santa Barbara County Code, "Floodplain Management Ordinance". Therefore, no flood-related impacts are expected. Finally, the traffic study submitted by a licensed engineer concluded that the project will not have a significant impact to traffic in the area. The traffic study was reviewed by the County Department of Public Works, who agreed with the study's conclusions.
- e. There are project alternatives available.** CEQA requires that an environmental impact report (EIR) include a discussion of reasonable project alternatives that would "feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any significant effects of the project, and evaluate the comparative merits of the alternatives". However, as outlined in detail in Attachment 3, the project is statutorily exempt from CEQA, and therefore does not require a discussion of alternatives.

### **Appeal Issue No. 3: Traffic and Parking**

The Appellants list several concerns with regards to traffic and parking, as follows:

- a. The existing parking plan and TDM program are ineffective and have not been adequately enforced in a timely manner. The new parking monitors recently stationed by the resort have been effective at reducing spillover impacts, but are not required by the conditions.
- b. The parking study did not consider actual parking demand, trip counts, and employee time records and instead uses a hypothetical model.
- c. There are concerns with emergency vehicle access within the proposed parking lots.
- d. The cars could queue into adjacent local roads, which may impact pedestrian, bike, and vehicle circulation.
- e. Existing and proposed retail will function as a luxury boutique shopping center generating significantly more traffic and parking demand than what was assumed, and the project does not include VMT impact analysis due to the assumption that the retail is local/resort serving.
- f. The new employees from retail stores will further add to the traffic locally and aggravate the on-site parking shortage.

### **Staff Response:**

The traffic and parking studies submitted by a licensed engineer concluded that the project will not have a significant impact to parking and traffic in the area. The studies were reviewed by the County Department of Public Works, who agreed with the study's conclusions. As such, the proposed project meets all applicable Article II development standards and Comprehensive Plan policies, including the Coastal Land Use Plan for parking and traffic. Responses to the specific parking and traffic appeal issues are discussed below.

- a. The existing parking plan and TDM program have been effective, as based on almost five years of reporting, and the Applicant is implementing additional procedures to monitor parking. Condition No. 40 of Attachment 2-4 requires the Applicant to prepare an annual compliance report listing the total number of parking spaces used during events and present the compliance report to the Montecito Planning Commission. The current resort has been in operation since 2019. Pursuant to the annual compliance reports, in 2019, permit compliance staff received seven complaints from one individual (six in March 2019 and one in May 2019) related to employees of the resort parking on the streets immediately surrounding the resort and not parking in designated lots. Compliance staff also received one complaint in August of 2019 related to an incident involving excursion buses idling off site in June 2019. Additionally, Public Works staff and P&D staff received one complaint in August of 2020 of resort guests parking overnight in the public parking spaces adjacent to the resort on South Jameson Ave. The Miramar has been responsive and cooperative in dealing with parking complaints and working with County staff and neighbors to resolve concerns related to parking and operation of the resort. P&D received no complaints related to the Miramar parking conditions in 2021 and 2022, and only one complaint in 2023. Each complaint is reviewed by Permit Compliance staff to determine whether a violation exists. In the event that a violation is identified, the Applicant is required to timely abate the violation or the violation may result in fines. To date, the Applicant has operated in substantial compliance with all permit conditions and the Applicant is in good standing with the Department concerning permit compliance. No current violations exist on the property. Condition No. 55 requires Planning & Development to convey compliance reports to the Montecito Planning Commission annually until the Commission determines that annual reporting is no longer necessary. Finally, staff has updated Condition No. 55 to include language requiring the designated traffic coordinator (or designee) to inspect the public parking spaces on Eucalyptus Lane, South Jameson Lane, Miramar Avenue, and Humphrey Lane hourly between the hours of 8 am and 5 pm on weekend days throughout the year, during the week in the summer months (June 15 – September 15) and on all special event days. A daily log will be maintained to document that the monitoring has occurred and will be made available to P&D staff as part of the annual reporting requirements and upon request.
- b. Contrary to Appellants' assertion, the parking study is not based off of a hypothetical model, but is rather based off of published estimates for specific land uses developed by technical experts. The

parking demand rates in the parking study were based off the use and time-of-day factors in the Urban Land Institute, Shared Parking 3<sup>rd</sup> Edition and Parking Generation, 6<sup>th</sup> Edition. The “Apparel Store” use was used to provide a conservative analysis for the parking demand generated by the resort shops, as the resort shops are expected to have a significantly lower parking demand due to the nature of the high-end luxury shops. The shops are geared towards the resort guests, and a majority of the customers are anticipated to be already staying at the resort.

- c. The emergency access was reviewed by the Montecito Fire Protection District, and they did not have concerns with the proposed parking lots or emergency access to the site.
- d. Cars will not queue into the adjacent road because on-site parking for the resort is 100% valet, and the valet drop-off is located over 220 feet from South Jameson Lane. Additionally, if there is a line of cars in the driveway, there are spaces in the roundabout at the resort entrance where the valets can temporarily park the cars. There have not been any complaints or evidence of queuing since the resort became operational in 2019.
- e. The proposed resort shops will be local/resort serving, and will not generate traffic amounts similar to a shopping center. The resort shops will be similar in nature to the existing commercial development on site, and will primarily serve the guests of the resort. The traffic study assumes 50% of the people visiting the resort shops are guests staying at the resort and on-site residents. It is anticipated that an even greater percentage of the customers will be resort guests due to the high-end luxury nature of the shops. Chapter 18, Thresholds of Significance for Transportation Impacts, of the Environmental Thresholds and Guidelines Manual contains VMT screening criteria and thresholds of significance for the unincorporated areas of Santa Barbara County. The County presumes that projects meeting one or more of the screening criteria, absent substantial evidence to the contrary, would have an insignificant VMT impact and, therefore, would not require further VMT analysis. The traffic study included a VMT impact analysis based on the adopted screening criteria. The VMT screening threshold for the commercial component of the project is 50,000 square feet for locally serving retail uses. The project consists of 17,500 square feet of commercial development and is therefore significantly below this threshold. The retail component of the project is anticipated to reduce VMT in the County by providing new dining and retail opportunities for resort guests and on-site residents, as well as existing residents and employees in the surrounding areas of Montecito.
- f. The additional trips and parking demand from the retail store employees are accounted for under the “Apparel Store” use in the traffic and parking studies. As previously stated, the traffic and parking studies submitted by a licensed engineer concluded that the project will not have a significant impact to parking and traffic in the area. The studies were reviewed by the County Department of Public Works, who agreed with the study’s conclusions.

#### **Appeal Issue No. 4: GHG Impacts**

The Appellants state that the project may have a significant GHG impact, because the Applicant does not provide any factual basis to support its estimated employee service population, and the study relies on unsubstantiated traffic assumptions to assess GHG impacts from mobile emissions.

#### **Staff Response**

The proposed project will not have a significant GHG impact from mobile emissions as demonstrated in the Applicant’s Greenhouse Gas Technical Report, which relied on published traffic estimates for the proposed land uses developed by technical experts. The report used the project-specific trip rates provided in the traffic study completed by ATE and a licensed engineer. Staff reviewed the Greenhouse Gas Technical Report and found it to be consistent with County policies and agreed with the study’s analysis.

### **Appeal Issue No. 5: Evacuation**

The Appellants state that there should be an evacuation plan prepared for the Miramar and the surrounding community, and that there are public safety concerns regarding delayed evacuations related to the project's valet service and proposed parking configurations.

#### **Staff Response:**

There is no policy requirement or ordinance standard that requires a regional evacuation plan for an individual project. However, the Montecito Fire Protection District reviewed the project and the proposed emergency access, and determined that it meets all code and safety requirements. Specifically, the proposed project is required to meet all code requirements for safe evacuation of structures in the event of an emergency such as a fire. Both the Fire District and the Building & Safety Division reviewed the project plans and provided clearance for approval. In addition, at the Planning Commission hearing on November 1, 2024, Chief David Neels from the Montecito Fire Protection District, stated that the Department has completed several evacuation studies for the Montecito area, and these studies do not focus on a single property but have to look at the community as a whole. He also stated that during the 2018 debris flow, people were stranded on Highway 101 and "the Miramar became a location of refuge for the citizens that were trapped". Additionally, evacuations are typically done in phases to avoid a large amount of people all trying to leave an area at once. Although valet parking will still allow for phased evacuation, Fire Department staff also commented that the Miramar property would likely be utilized as a shelter-in-place site during emergencies rather than a place from which to evacuate. In summary, County fire and safety personnel reviewed the project and determined that it does not pose an imminent threat to the public's safety and welfare.

### **Appeal Issue No. 6: Lack of Fair and Impartial Hearing/Abuse of Discretion**

The Appellants state that there was a lack of a fair and impartial hearing because review of the project was moved from the Montecito Planning Commission to the Santa Barbara Planning Commission, the plans were not reviewed by the Montecito Board of Architectural Review, and the Applicant was given 20 minutes to present while the residents were given two to three minutes.

#### **Staff Response:**

The hearing before the Board is *de novo*. Regardless, the public hearings conducted by the County Planning Commission on October 9 and November 1, 2024, were fair and impartial hearings that complied with the Brown Act and the County Planning Commission Procedures Manual<sup>1</sup> (Procedures Manual). The County Planning Commission heard the project based on County Code Section 2-25.2(b)(3), which provides that projects in the Montecito Planning area that are "applications, proposals or matters involving . . . affordable housing" remain within the jurisdiction of the County Planning Commission. It also states that the Montecito Planning Commission may provide a recommendation to the County Planning Commission. The project was scheduled for three public hearings. The schedule included review by the County Planning Commission on October 9, 2024, a recommendation by the Montecito Planning Commission on October 18, 2024, and a final decision by the County Planning Commission on November 1, 2024, in compliance with the County Code. The Montecito Planning Commission was unable to make a recommendation due to a loss in quorum, however public comment was accepted at each of the three above-mentioned hearings. Across the three hearings, the Planning Commissions received approximately four hours of public testimony on the project. The first iteration of the project received a conceptual review by the Montecito Board of Architectural Review (MBAR) on October 19, 2023. The Applicant addressed many of their concerns, including increasing the amount of employee housing, reducing the square footage of the resort shops, reducing the height of the development in the northwest parking lot from three stories to two, and increasing the landscaping along South Jameson Lane. Additional hearings were not scheduled because under the HAA, a project can only be measured against

---

<sup>1</sup> The PC Procedures Manual is available at: <https://content.civicplus.com/api/assets/2358ee05-b225-45e5-b9a3-f66d15d3f78f> and available in hard copy at the Planning and Development Department offices located at 123 E. Anapamu Street, Santa Barbara, CA 93101.



objective policies and standards and review by the MBAR is inherently subjective. Finally, pursuant to the Procedures Manual, time limits on public testimony may be established at the discretion of the Chair as necessary for the orderly and efficient conduct of the hearing. The project was within the Planning Commission's original permitting jurisdiction, so there was no "appellant". Therefore, all public speakers were provided the same standard amount of time to provide testimony. Applicants are typically given 20 minutes to present their projects.

### **Appeal Issue No. 7: Coastal Access**

The Appellants state that the project will result in impacts to coastal access because the resort is under-parked, resulting in a loss of public parking spaces. Additionally, they state that the public easement to the beach through the resort has been blocked by resort staff, and the public easement between the resort and the northeast lot could be adversely impacted due to the intensification of traffic and parking.

#### **Staff Response:**

The proposed project will not have impacts to Coastal Access. As discussed in Appeal Issue No. 3, the traffic and parking studies submitted by a licensed engineer concluded that the project will not have a significant impact to parking and traffic in the area. The studies were reviewed by the County Department of Public Works, who agreed with the study's conclusions.

Additionally, monitoring of the public spaces is required by Condition Nos. 36, 37, and 40 of Attachment 2-4. Condition No. 36 requires that the Applicant develop protocols for informing resort guests and staff that street parking is for the public, Condition No. 37 requires that employees have a decal fixed to their windshield to prevent them from parking in public spaces and that the Applicant develop a plan for monitoring the use of parking spaces along Eucalyptus Lane, South Jameson Lane, Miramar Avenue, and Humphrey Lane, and Condition No. 40 requires a final parking plan with a designated traffic coordinator, parking signage, and an exhibit indicating where additional on-site parking could be developed. Finally, as discussed in Appeal Issue No. 3 above, staff has updated Condition No. 40 to include language requiring the designated traffic coordinator (or designee) to inspect the public parking spaces on Eucalyptus Lane, South Jameson Lane, Miramar Avenue, and Humphrey Lane hourly between the hours of 8 am and 5 pm on weekend days throughout the year, during the week in the summer months (June 15 – September 15) and on all special event days. A daily log will be maintained to document that the monitoring has occurred and will be made available to P&D staff as part of the annual reporting requirements.

Public access to the beach is provided by three easements through the resort. Condition No. 63 of Attachment 2-4 required the pedestrian access easements to be recorded, and Condition No. 64 of Attachment 2-4 required the Applicant to provide signage marking public routes through the site to the beach. Both of these conditions were satisfied prior to the resort's opening. Any blockage of the easements is a violation to the project conditions, which can be reported to Permit Compliance staff. An intensification of traffic or parking will not impact the easement adjacent to the northeastern lot, as the easement is for pedestrian access over a paved path. The easement will be slightly modified so that the location of the affordable units will not impact the public access to the easement.

### **Appeal Issue No. 8: Flood Hazards**

The Appellants state that there are concerns related to flood hazards, which include discrepancies in stormwater runoff calculations, new FEMA maps placing the affordable housing in a FEMA Flood Zone, and uncertainty with Sea Level Rise calculations.

#### **Staff Response:**

**Runoff Calculations.** The proposed project meets all code requirements for flood hazards. The Applicant submitted a Tier 3 Conceptual Stormwater Control Plan (SWCP) in accordance with the County of Santa Barbara's Stormwater Technical Guide. The SWCP demonstrates how the project will limit disturbance,

minimize impervious surfaces, minimize runoff, implement source control measures, and retain the storm water runoff for all events up to and including a 95<sup>th</sup> percentile event. The Applicant also submitted a Drainage Analysis demonstrating that post-development runoff rates are equal to or less than pre-development runoff. These reports were reviewed and approved by Public Works Water Resources Division. Prior to issuance of the Coastal Development Permit for the project, the Applicant is required to submit a Final SWCP with a long-term maintenance plan to the County for the proposed retention facilities.

**FEMA Flood Zone.** Because a portion of the project is located within a FEMA Flood Zone, the project is required to comply with Flood Control District’s floodplain management requirements (Chapter 15A). The project has been reviewed by Flood Control, and meets floodplain requirements, including elevated finished floors and dry floodproofing on the commercial buildings to the west. The project is currently regulated pursuant to an effective FEMA Flood Insurance Rate Map (Figure 1) that is set to expire and will be replaced with a preliminary FEMA map (Figure 2). The preliminary FEMA map is estimated to be adopted by FEMA in 2026. Upon adoption, the preliminary map will automatically become enforceable under Chapter 15A, and will automatically replace the current effective mapping. The below preliminary FEMA map shows that the flood hazard in the area where the affordable housing will be constructed will be reduced as compared to the existing flood hazard depicted on the effective FEMA maps. The light blue overlay on the effective FEMA map represents a 1% Annual Chance Flood Hazard. The project site area is outlined in red and the area of the proposed employee housing building is outlined in green in both figures below.



Figure 1. Effective FEMA Map for Northeast Lot



Figure 2. Preliminary FEMA Map for Northeast Lot

The yellow on the preliminary FEMA map above represents a 0.2% Annual Chance Flood Hazard, and the blue represents a 1% Annual Chance Flood Hazard. On the preliminary FEMA map, the affordable units will be located entirely outside of the 1% Annual Chance Flood Hazard overlay. In either case, the proposed project has been cleared by County Flood Control and is consistent with County Code Chapter 15A (Floodplain Management) and 15B (Development Along Watercourses).

**Sea Level Rise.** Policy 3-4 of the Coastal Land Use Plan states:

*In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination. At a minimum, such geologic report shall be prepared in conformance with the Coastal Commission's adopted Statewide Interpretive Guidelines regarding "Geologic Stability of Bluff top Development."*

The Applicant was not required to submit a Sea Level Rise analysis because the development is not proposed on the bluff top, and there are no impacts from bluff erosion anticipated for the project for 75 years. The closest habitable development is located approximately 425 feet from the shoreline. There are several structures in between the proposed development and the coast, including single-family homes, the Miramar beach bar, and the Union Pacific railroad tracks. However, the Applicant submitted a Sea Level Rise Flood Hazard Discussion, which determined that the proposed development is safe from shoreline erosion, wave attack and wave runup flooding, and will not experience emergent groundwater, over the 75-year expected design life.

**Appeal Issue No. 9: Inconsistent with the Comprehensive Plan**

The Appellants state that the project is inconsistent with the Comprehensive Plan, including the Montecito Community Plan. They specifically cite Policy LUC-M-1.1, Policy LUC-M-1.2, Goal LU-M-2, Policy LU-M-2.1, Goal LUC-M-1, Policy LUC-M-1.6, Development Standard LU-M-1.2.1, Goal VIS-M-1.1, Policy VIS-M-1.3, and Transportation Goal CIRC-M-3.

**Staff Response:**

As discussed in Section 6.2 of the Planning Commission Staff Report (Attachment 10), the project is consistent with all objective policies and development standards of the Comprehensive Plan, including the Coastal Land Use Plan. The project qualifies for processing under the Housing Accountability Act (HAA) because it is a mixed-use development consisting of residential and non-residential uses with at least two-thirds of the proposed square footage designated for residential use. Under the HAA, a housing development project that is consistent with objective general plan, zoning, and subdivision standards and criteria, cannot be disapproved or conditioned to lower density unless the decision-maker finds, supported by a preponderance of the evidence in the record, that the project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

Several of the policies cited by Appellants are not objective. However, the project is consistent with all of the additional applicable policies cited by the Appellants, as discussed below.

***Policy LUC-M-1.1: Commercially designated land serving local needs shall be provided within the "Village Area" but not expanded to new sites.***

The project is consistent with this policy as the project site is zoned *Visitor Serving Commercial*, and is intended to serve visitors, not local needs. Visitor serving uses are a high priority in the Coastal Zone. The commercial/resort retail and café are primarily intended to serve the resort guests. There will not be new commercial uses intended to meet local needs expanded to new sites.

***Policy LUC-M-1.2: New commercial land designations and uses shall be limited to those needed to serve the greater Montecito community (i.e., neighborhood commercial (CN) zoned).***

This policy does not apply because there is not a new commercial land designation or use proposed. The site is currently zoned CV (Visitor Serving Commercial) and there is existing commercial development on site.

***Goal LU-M-2: Preserve roads as important aesthetic elements that help to define the semi-rural character of the community. Strive to ensure that all development along roads is designed in a manner that does not impinge upon the character of the roadway.***

***Policy LU-M-2.1: New structures shall be designed, sited, graded, and landscaped in a manner which minimizes their visibility from public roads.***

***Goal LUC-M-1: Strive to ensure that all commercial development and uses respect the scale and character of surrounding residential neighborhoods.***

***Goal CIRC-M-3: Achieve land use patterns and densities that reflect the desire of the community to prevent further degradation of roadways and intersections for the benefits of safety, aesthetics and community character.***

These policies are not objective, and because the project is consistent with all applicable objective standards, they are not a basis for denial of the project under the HAA. Regardless, the proposed project can still be found consistent with these standards. No changes are proposed to adjacent roadways and all proposed development is sited and designed to be setback from the road right-of-way and significant landscape screening will buffer the development from the roads, preserving roadway and community character.

**Policy LUC-M-1.6:** *Improvements to resort visitor-serving hotels shall be designed to be consistent with the existing historic "Cottage Type Hotel" tradition from the early days of Montecito. "Cottage Type Hotel" is defined by cottages limited to six guest rooms each, which are generally single story in height.*

The proposed buildings will be compatible with the existing "Cottage Type" architecture and will use similar architectural details and materials as the existing resort, including slate roof tiling, painted wood shutters, wood door and window accents, wood balcony railings, painted columns, copper gutters and downspouts, varying colored brick, limestone painted columns, fabric awnings, metal lattices, and metal railings. There are no additional guest rooms proposed.

**Development Standard LU-M-1.2.1:** *New structures shall be limited to an average height of 16 feet above finished grade where site preparation results in a maximum fill of 10 feet or greater in height.*

This standard does not apply because the project does not include site preparation that will result in a maximum fill of 10 feet or greater in height.

**Goal VIS-M-1:** *Protect the visual importance of the Santa Ynez Mountain Range and ocean views as having both local and regional significance and protect from development which could adversely affect this quality.*

**Policy VIS-M-1.3:** *Development of property should minimize impacts to open space views as seen from public roads and viewpoints.*

These policies are not objective, and because the project is consistent with all applicable objective standards, they are not a basis for denial of the project under the HAA. Regardless, the project will not significantly impact public views of the Santa Ynez Mountain Range, ocean, or open space. The mountains will still be visible when driving north on Eucalyptus Lane and the second story of the southernmost building in the northwest corner of the site was voluntarily set back from the road by the Applicant to better preserve these views. The view of the mountains from Jameson Lane will not be impacted as the development is located south of the road. Views of the coast are already blocked from South Jameson Lane and Highway 101 by existing development and vegetation. Views of the coast from the northwest parking lot are blocked by existing vegetation, All Saints by the Sea church, and the existing Miramar guest cottages. Views of the coast from the northeast parking lot are mostly blocked by development along Miramar Beach, including residences and the Miramar Beach Bar. The proposed development will not impact views of the coast from Eucalyptus Lane as it runs north and south, and the existing Miramar buildings, All Saints by the Sea Church buildings, and existing hedges block views of the ocean when facing the coast along Eucalyptus Lane. There are no open space areas in the vicinity of the project.

### **Appeal Issue No. 10: Inconsistent with Article II Regulations**

The Appellants state that the project is inconsistent with Coastal zoning ordinance regulations. They specifically cite Section 35-81.5 of Article II and Section 35.424.060 of the Montecito Land Use and Development Code.

#### **Staff Response:**

As discussed in Section 6.3 of the Planning Commission Staff Report (Attachment 10), with the approval of the SDBL requests for five waivers/modifications to applicable Article II development standards for floor area ratio, height, number of stories, setbacks, and open space, the project complies with all applicable objective standards in Article II. Housing development projects eligible for review under the HAA must be analyzed inclusive of all project waivers and/or concessions pursuant to State Density Bonus Law. Section 35-81.5 of Article II lists permitted uses in the C-V Zone, including:

*Light commercial uses (i.e., barber and beauty shops, gift shops, restaurants, etc.) normally associated with the needs of visitors, provided such commercial activities are so designed and limited as to be incidental and directly oriented to the needs of visitors and do not substantially change the character of the resort/visitor-serving facility.*

The project is consistent with this ordinance standard because there are currently light commercial uses on-site, including resort-oriented clothing shops, a jewelry store, a wellness/beauty shop, and restaurants that primarily serve the guests and visitors of the Miramar resort. As noted above, the new uses will be primarily used by resort guests. The project proposes up to 12 additional resort shops that will be similar in nature to the existing commercial development on site, and one café, which will not substantially change the character of the Miramar resort. It is estimated that at least 50% of the people visiting the resort shops are guests staying at the resort and on-site residents. It is anticipated that an even greater percentage of the customers will be resort guests due to the high-end luxury nature of the shops. The additional commercial development will not reduce the number of guest rooms and will be ancillary to the primary use as a resort. The commercial development will generally be screened by vegetation and all entrances are interior to the resort.

Section 35.424.060 of the Montecito Land Use and Development Code does not apply because the project is located in the coastal zone and Article II is the appropriate zoning code.

### **Summary**

In summary, the proposed project is being processed under the Housing Accountability Act as a mixed-use housing development project and is only subject to objective standards and policies. The project can only be disapproved or conditioned to a lower density if there is a “specific adverse impact” to public health or safety based on existing, objective standards and policies that cannot be otherwise mitigated or avoided. The project has been reviewed and approved by all applicable County departments. With the requested waivers, the project is consistent with Article II and the Comprehensive Plan, including the Montecito Community Plan and the Coastal Land Use Plan.

### **Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately \$21,900.00 (75 hours of staff time). The costs for processing project appeals are partially offset by a fixed fee, however, no appeal fees were collected because this project is located within the Coastal Commission’s Appeals Jurisdiction. Funding for this project is budgeted in the Planning and Development Department’s Permitting Budget Program as shown on Page 317 of the County of Santa Barbara Fiscal Year (FY) 2024-25 Adopted Budget.

### **Special Instructions:**

The Planning and Development Department shall publish a legal notice in the *Montecito Journal* at least 10 days prior to the hearing on December 10, 2024. The Planning and Development Department shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing to the Planning and Development Department, Hearing Support, David Villalobos.

### **Attachments:**

Attachment 1 – Findings

Attachment 2 – Conditions of Approval

2-1. Conditions of Approval for Case No. 24RVP-00050

2-2. Conditions of Approval for Case No. 24RVP-00051

2-3. Conditions of Approval for Case No. 24AMD-00008

2-4. Conditions of Approval for Case No. 24CDP-00077

Attachment 3 – CEQA Notice of Exemption

Attachment 4 – Appeal Application for Case No. 24APL-00027

Attachment 5 – Appeal Application for Case No. 24APL-00028

Attachment 6 – Appeal Application for Case No. 24APL-00029

Attachment 7 – Appeal Application for Case No. 24APL-00030  
Attachment 8 – Appeal Application for Case No. 24APL-00031  
Attachment 9 – Planning Commission Action Letter, dated November 5, 2024  
Attachment 10 – Planning Commission Staff Report, dated October 1, 2024  
Attachment 11 – Project Plans

**Authored by:**

Willow Brown, Planner, [wbrown@countyofsb.org](mailto:wbrown@countyofsb.org)  
Development Review Division, Planning and Development Department