

APPEAL TO THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

Submit to: Clerk of the Board  
County Administration Building  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101

2015 JAN 27 PM 4:58  
COUNTY OF SANTA BARBARA  
CLERK OF THE BOARD

RE: Project Title MIRAMAR BEACH RESORT AND BUNGALOWS  
Case Number 14 RVP-00000-00063; 14AMD-00000-00010 and addl: 14COP-00000-00009 and 00091  
Tract/ APN Number 009-371-003, 004, 009-343-010; 009-374-008 and 009-490-002  
Date of action taken by Montecito Planning Commission, Zoning Administrator, or Surveyor JANUARY 21, 2015

I hereby appeal the \_\_\_\_\_ of the Montecito Planning Commission  
(approval/approval with conditions/ or denial) (Planning Commission/ Zoning Administrator/ or County Surveyor )

Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}

Attach additional documentation, or state below the reason(s) for this appeal.

SEE ATTACHED

Specific conditions being appealed are:

Name of Appellant (please print): Richard and Dana Pachulski  
Address: 16100 SANTA MONICA BLVD, LA CA 90067  
(Street, Apt #) (City/ State/ Zip Code) (Telephone)

Appellant is (check one):  Applicant  Agent for Applicant  Third Party  Agent for Third Party

Fee \$ NA {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: [Signature] Date: 1/27/15

FOR OFFICE USE ONLY

Hearing set for: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_ File No. \_\_\_\_\_



# Appeal to the Board of Supervisors or Planning Commission (County of Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of:

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

## THIS PACKAGE CONTAINS \_\_\_\_\_

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

## AND, IF ✓'D, ALSO CONTAINS \_\_\_\_\_

<b>South County Office</b> 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	<b>Energy Division</b> 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	<b>North County Office</b> 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	<b>Clerk of the Board</b> 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax: (805) 568-2249
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Website: [www.sbcountyplanning.org](http://www.sbcountyplanning.org)

## SUBMITTAL REQUIREMENTS

- 8 Copies of the attached application.
- 8 Copies of a written explanation of the appeal including:
- If you are not the applicant, an explanation of how you are an “**aggrieved party**” (“Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.”);
  - A clear, complete and concise statement of the **reasons or grounds for appeal**:
    - Why the decision or determination is consistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; or
    - There was error or abuse of discretion;
    - The decision is not supported by the evidence presented for consideration;
    - There was a lack of a fair and impartial hearing; or
    - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- 1 Check payable to Planning & Development.

✓  
✓ Note: There are additional requirements for certain appeals including:

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



**PLANNING & DEVELOPMENT  
APPEAL FORM**

SITE ADDRESS: 155 South Jameson Lane, Montecito

ASSESSOR PARCEL NUMBER: 009-371-003, 004; 009-343-010; 009-344-008 and 009-010-002

Are there previous permits/applications? no yes numbers: See Attached  
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? no yes numbers: See Attached

1. **Appellant:** Richard and Dana Pachulski Phone: 310-277-6910 FAX: 310-201-0760

Mailing Address: 10100 Santa Monica Blvd., Los Angeles, CA 90067 E-mail: \_rpachulski@pszjlaw.com  
Street City State Zip

2. **Owner:** Caruso Affiliated Phone: 323-900-8100 FAX: \_\_\_\_\_

Mailing Address: 101 The Grove Drive, Los Angeles, CA 90036 E-mail: \_\_\_\_\_  
Street City State Zip

3. **Agent:** N/A Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Street City State Zip

4. **Attorney:** Robert Silverstein, Silverstein Law Firm Phone: 626-449-4200 FAX: 626-449-4205

Mailing Address: 215 N. Morengo Ave., Pasadena, CA 3rd Flr. CA 91101 E-mail Robert@silversteinlaw.com  
Street City State Zip

**COUNTY USE ONLY**

Case Number: _____	Companion Case Number: _____
Supervisorial District: _____	Submittal Date: _____
Applicable Zoning Ordinance: _____	Receipt Number: _____
Project Planner: _____	Accepted for Processing _____
Zoning Designation: _____	Comp. Plan Designation _____

# COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION:  COUNTY  MONTECITO

RE: Project Title Miramar Beach Resort and Bungalows

Case No. 14RVP-00000-00063; 14AMD-00000-00010 and 00011; 14CDP-00000-00086, 00090 and 00091

Date of Action January 21, 2015

I hereby appeal the  approval  approval w/conditions  denial of the:

Board of Architectural Review – Which Board? \_\_\_\_\_

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? Montecito

Planning & Development Director decision

Zoning Administrator decision

### Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are an “aggrieved party” as defined on page two of this appeal form:

The Pachulski residence is located at 50 Miramar Ave., immediately adjacent to the proposed hotel development. The Pachulski’s (and other community members’) peace and enjoyment of their property will be negatively impacted by the approved project, as conditioned, due to the location and orientation of the bungalows and cottages on Miramar Ave., by the loss of existing public on-street parking and by the lack of adequate on-site parking for hotel guests, employees, and special event attendees.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See Attachment A

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Specific conditions imposed which I wish to appeal are (if applicable):

- a. 

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- b. 

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- c. 

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- d. 

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Please include any other information you feel is relevant to this application.

**CERTIFICATION OF ACCURACY AND COMPLETENESS** Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Print name and sign - Firm	<u>Christopher Price Christopher Price</u>	Date
		<u>1/27/15</u>
Print name and sign - Preparer of this form		Date

<u>ROBERT P. SILVERSTEIN Robert P. Silverstein/ek</u>	Date
	<u>1/27/15</u>
Print name and sign - Applicant Attorney	Date

Print name and sign - Agent	<u>Richard Pachulski Richard Pachulski</u>	Date
		<u>1/27/15</u>
Print name and sign - Landowner		Date

## Attachment A

### Grounds for Appeal

We represent Richard M. Pachulski and Dana Pachulski, who are owners of real property located at 50 Miramar Ave (the "Appellants"). The Appellants bring this appeal pursuant to Article II, Section 35-182.5 of the Santa Barbara County Zoning Ordinance (the "Coastal Zoning Ordinance"). Appellants' property is immediately adjacent to the site of the proposed Miramar Hotel Project (the "Project"). Appellants appeared either in person or through counsel at the hearings of the Montecito Planning Commission ("MPC") on December 15, 2014 and January 21, 2015 and expressed their opposition to the proposed changes to the Project.

Appellants are appealing the final action by the MPC on January 21, 2015 to conditionally approve the Caruso Affiliated application for a revised Development Plan, amended Conditional Use Permits, and various Coastal Development Permits subject to conditions of approval, to accept a CEQA Addendum pursuant to Section 15164 of the CEQA Guidelines, and to adopt required findings as included in the staff report dated January 21, 2015.

Appellants assert that the MPC's decision concerning the Miramar Hotel Project was an abuse of discretion and not in accord with the provisions and purposes of the Coastal Zoning Ordinance and the Montecito Community Plan, including development standards for neighborhood compatibility implemented through the Montecito Architectural and Development Guidelines. The Project's specific incompatibilities with the neighborhood and failure to adequately disclose and analyze impacts of the project pursuant to CEQA Guidelines, which in part form the basis of this appeal, are addressed in our letters to the MPC dated December 11, 2014 and January 16, 2015, which were presented to the MPC in advance of its deliberations on the hearings of December 15, 2014 and January 21, 2015, and are incorporated herein by reference.

The Appellants reserve their right to present additional evidence prior to the Board's *de novo* hearing on this appeal once the revised findings and conditions of approval are available for public review. The issues to be raised on appeal are summarized as follows:

1. The MPC abused its discretion in approving the Addendum for the Miramar project dated November 21, 2014 as adequate environmental review pursuant to, *inter alia*, CEQA Guidelines Section 15164. The CEQA review is flawed and uses improper baseline conditions based on a 2003 Mitigated Negative Declaration. The proposed project modifications are not "minor technical changes" that might, under some circumstances, be appropriate for review via Addendum. Appellants contend that an EIR or Supplemental EIR is required given the nature of the proposed project modifications, their impacts on the environment, and the changed baseline conditions since 2003. Use of an Addendum is facially improper. Further, the Addendum fails to adequately analyze impacts related to existing water supply and project demand, parking and traffic



circulation impacts on the surrounding neighborhood, cumulative impacts associated with Highway 101 widening and interchange improvements and potential loss of additional parking in connection with widening. Therefore, the findings to approve the Project cannot be made and the project must be denied.

2. The MPC abused its discretion in approving the Miramar Hotel Project to allow a modification to the parking requirements below the minimum number required by the Coastal Zoning Ordinance. The Ordinance requires findings for parking modifications that include, but are not limited to, that the modification will not adversely affect the demand for on-street parking in the immediate area and that the project be compatible with the neighborhood. As discussed in detail in our objection letters to the MPC dated December 11, 2014 and January 16, 2015, the Miramar Hotel Project is severely under-parked to meet the expected utilization by hotel guests and employees, beach club members, and special event guests. The resulting overflow parking onto the surrounding neighborhood streets will significantly burden the limited supply of existing public parking for residents and beachgoers. Therefore the finding for approval cannot be made and the Project must be denied.
3. The MPC abused its discretion in approving the Project to allow a modification to the minimum building setbacks required by the Coastal Zoning Ordinance. The Ordinance requires findings for building setback modifications that include, but are not limited to, that the modification is minor in nature, is compatible with the neighborhood, does not create an adverse impact to community character, and is not detrimental to the existing ambient noise levels. As discussed in detail in our objection letters to the MPC dated December 11, 2014 and January 16, 2015, the approved building setbacks along Miramar Ave. will allow the five hotel bungalows to be directly accessed via Miramar Avenue and thus to have direct contact with the existing neighborhood. The self-parked bungalows as approved will be situated in manner that denies the ability to use the public road right-of-way for public parking. In addition, absent any separation or screening, the orientation of the bungalows within the required setback will introduce a high volume/high intensity visitor-serving commercial use to an existing semi-rural residential neighborhood. The resulting traffic, competition for limited parking spaces, noise, and pedestrian traffic is incompatible with the surrounding neighborhood and creates adverse impacts for nearby residents. Therefore, the finding for approval cannot be made and the Project must be denied.
4. The MPC abused its discretion in approving the Project relative to water supply. Coastal Land Use Policy 2-6 requires that a finding be made that adequate services (including water) are available to serve the Project, and lack of available services or resources shall be a ground for denial of the Project. As explained by the Montecito Water District in its letter to County staff dated August 28, 2014, the District has declared a Water Shortage Emergency due to the ongoing severe statewide drought conditions, and it adopted Ordinance 92 on February 1, 2014 to declare the emergency and define the District's response. The District then adopted Ordinance 93 on February 21, 2014, which allocates 5,300 acre feet (AF) of water amongst its operational customers. However, the District also stated that only 2,070 AF of water is available in the 2015-2016 water years to

deliver to these customers. In response to this lack of available supply, the District states that while it will honor the Project's Certificate of Water Service Availability for 45 AF, ***"the amount of water available to service your property in the future cannot be guaranteed."*** Given a current shortfall of at least 3,230 AF to service existing demand throughout the District and the uncertainty of the amount of water available for the project once it is operational, the finding that adequate water exists to serve the Project cannot be made and the Project must be denied.