

November 10, 2024  
Mr. Steve Lavagnino, Chair  
Santa Barbara County Board of Supervisors  
105 East Anapamu Street  
Santa Barbara, CA 93101

Re: Appeal of the SB County Planning Commission's November 1, 2024 Approval of the Miramar Hotel Mixed-Use Revision

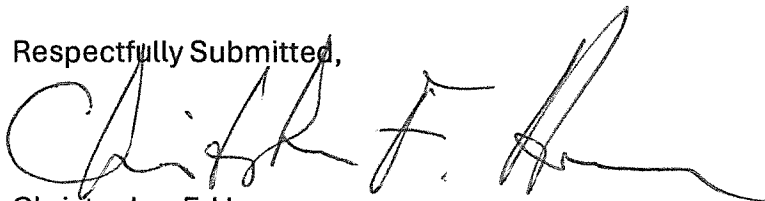
Dear Chair Lavanigno and Honorable Supervisors:

My name is Christopher Horner, a 12-year resident of the Miramar neighborhood. I am appealing the decision made by the Santa Barbara County Planning Commission on 11/1/24 to approve the Miramar Hotel Mixed-Use revision. I spoke in opposition of the project at the Montecito Planning Commission meeting of 10/18/24 and on 11/1/24 at the SB County Planning Commission meeting.

Included here are:

- 1) My Appeal Application
- 2) EXHIBIT A) An opposition letter and a follow-up note to Willow Brown, senior planner for Santa Barbara County, written on 6/7/24 and 6/18/24 respectively and emailed to Ms. Brown
- 3) EXHIBIT B) An opposition letter, marked E emailed to David Villalo of Santa Barbara County on 10/15/24 for presentation to both the Montecito Planning Commission and the Montecito Planning Commission prior to the MPC meeting of 10/18/24
- 4) EXHIBIT C) A letter, now in the public record, originally submitted to the SB County Planning Commission on 10/7/24 by The Law Office of Mark Chytilo on behalf of All Saints Church. While All Saints has since retracted its complaint against Caruso Affiliated, the letter nonetheless contains serious, legally supported arguments which were not heard or considered by the CPC but which support this appeal. I urge the Board of Supervisors to carefully read the Chytilo letter, starting at the bottom of page 2 where marked, as it outlines many of the specific areas where the Miramar Revision Project is deficient in both legal terms and in terms of public health, safety, parking, traffic and other such serious matters.

Respectfully Submitted,



Christopher F. Horner



# Appeal Application

County Use Only	Appeal Case No.:
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### STEP 1: SUBJECT PROPERTY

009-371-007, 009-333-013 & 009-010-004

ASSESSOR'S PARCEL NUMBER(S)

1759 South Jameson Lane & 96 Eucalyptus Lane, Montecito, CA 93108

PROPERTY ADDRESS (IF APPLICABLE)

Miramar Hotel

BUSINESS/ESTABLISHMENT NAME (IF APPLICABLE)

### STEP 2: PROJECT DETAILS

Miramar Hotel Mixed-Use Development Revision

PROJECT TITLE

24RVP-00050, 24RVP-00051, 24AMD-00008 & 24CDP-00077

CASE NO(S).

County Planning Commis: 11/1/2024

DECISION MAKER

DATE OF ACTION

Is the appeal related to cannabis activities?  Yes  No

### STEP 3: APPEAL CONTACTS

#### APPELLANT

Christopher Horner

NAME (if LLC or other legal entity, must provide documentation)

90 Virginia Lane

STREET ADDRESS

Montecito CA 93108

CITY, STATE ZIP

805 570 4885 chorner630@aol.com

PHONE EMAIL

#### AGENT

Christopher Horner

NAME (if LLC or other legal entity, must provide documentation)

90 Virginia Lane

STREET ADDRESS

Montecito CA 93108

CITY, STATE ZIP

805 570 4885 chorner630@aol.com

PHONE EMAIL

#### ATTORNEY

Christopher Horner

NAME (if LLC or other legal entity, must provide documentation)

90 Virginia Lane

STREET ADDRESS

Montecito CA 93108

CITY, STATE ZIP

805 570 4885 chorner630@aol.com

PHONE EMAIL

### STEP 4: APPEAL DETAILS

Is the Appellant the project Applicant?  Yes  No

If not, please provide an explanation of how you are an "aggrieved party", as defined in Step 5 on page 2 of this application form.

I believe that despite the case made by Caruso Affiliated in defense of the Miramar Expansion and approved by the SB County Planning Commission on 11/1/24, there is pertinent information that was not heard regarding traffic, parking, emergency access and other related negative health and safety impacts that can only come from specific CEQA environmental impact inquiry.

Please provide a clear, complete, and concise statement of the reasons or ground for appeal:

- Why the decision or determination is consistent/inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law;
- 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.
- Coastal Zone – Accessory Dwelling Unit appeals: Appellant must demonstrate that the project is inconsistent with the applicable provisions and policies of the certified Local Coastal Program or that the development does not conform to the public access policies set forth in the Coastal Act.

The new Miramar project, like the original Hotel itself, has never had to pass full CEQA inquiry/scrutiny. Given huge local impacts, it is vital the proposed project be required to do so now. Just one example: despite their promise to monitor/enforce employee and guest parking for the original hotel, the Miramar has not consistently done so, resulting in hotel-related parking in designated public parking spaces, clogging streets on crowded beach days and event days at All Saints. This will only worsen as visitors to proposed new shops seek to avoid valet fees, further clogging public street traffic and parking and making passage of emergency vehicles more difficult -- a public safety hazard and impairing public beach access. Thorough EIR and coastal commission scrutiny is now vital.

**STEP 5: APPELLANT, AGENT, AND ATTORNEY ACKNOWLEDGEMENTS**

I hereby certify under penalty of perjury that I have read the information below and that:

1. I have carefully reviewed and prepared the appeal application in accordance with the instructions; and
2. I provided information in this appeal application, including all attachments, which are accurate and correct; and
3. I understand that the submittal of inaccurate or incomplete information or plans, or failure to comply with the instructions may result in processing delays and/or denial of my application; and
4. I understand that it is the responsibility of the applicant/appellant to substantiate the request through the requirements of the appeal application; and
5. I understand that upon further evaluation, additional information/documents/reports/entitlements may be required; and
6. I understand that all materials submitted in connection with this appeal application shall become public record subject to inspection by the public. I acknowledge and understand that the public may inspect these materials and that some or all of the materials may be posted on the Department's website; and
7. I understand that denials will result in no refunds; and
8. I understand that Department staff is not permitted to assist the applicant, appellant, or proponents and opponents of a project in preparing arguments for or against the project; and
9. I understand that there is no guarantee – expressed or implied – that an approval will be granted. I understand that such application must be carefully evaluated and after the evaluation has been conducted, that staff's recommendation or decision may change during the course of the review based on the information presented; and
10. I understand an aggrieved party is defined as any person who in

person, or through a representative, appears 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; and

11. Pursuant to California Civil Code Section 1633.5(b), the parties hereby agree that where this Agreement requires a party signature, an electronic signature, as that term is defined at California Civil Code Section 1633.2(h), shall have the full force and effect of an original ("wet") signature. A responsible officer of each party has read and understands the contents of this Agreement and is empowered and duly authorized on behalf of that party to execute it; and
12. I understand that applicants, appellants, contractors, agents or any financially interested participant who actively oppose this project who have made campaign contributions totaling more than \$250 to a member of the Planning Commission or Board of Supervisors since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount and date of the campaign contribution and identify the recipient Board member and may be made either in writing as part of this appeal, in writing to the Clerk of the legislative body before the hearing, or by verbal disclosure at the time of the hearing; and
13. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the applicant shall identify:
  - How the Land Use Permit is inconsistent with the previously approved discretionary permit;
  - 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;
  - How the approval is inconsistent with Section 35.106 (Noticing).

**REQUIRED SIGNATURES:** All aggrieved parties must sign the appeal application prior to the appeal deadline in order to be considered an aggrieved party. Please attach additional signature pages, as needed.

I have read and understand the above acknowledgements and consent to the submittal of this application.

Christopher Field Horner	Digitally signed by Christopher Field Horner Date: 2024.11.10 08:41:27 -08'00'	<b>Christopher Field Horner</b>	<b>11/10/24</b>
SIGNATURE – APPELLANT		PRINT NAME	DATE

Christopher Field Horner	Digitally signed by Christopher Field Horner Date: 2024.11.10 08:42:40 -08'00'	<b>Christopher Field Horner</b>	<b>11/10/24</b>
SIGNATURE – AGENT		PRINT NAME	DATE

Christopher Field Horner	Digitally signed by Christopher Field Horner Date: 2024.11.10 08:43:03 -08'00'	<b>Christopher Field Horner</b>	<b>11/10/24</b>
SIGNATURE – ATTORNEY		PRINT NAME	DATE

**Appeals to the Planning Commission.** Appeals to the Planning Commission must be filed with Planning and Development no later than 10 days following the date of the decision, along with the appropriate fees. Please contact P&D staff below for submittal instructions and to determine the appropriate fee.

South County projects: [front@countvotsp.org](mailto:front@countvotsp.org) or (805) 568-2090  
North County projects: [nconline@countvotsp.org](mailto:nconline@countvotsp.org) or (805) 934-6251

**Appeals to the Board of Supervisors.** Appeals to the Board of Supervisors must be filed with the Clerk of the Board and must be filed no later than 10 days following the date of the decision, along with the appropriate fees. Appeal instructions are located online at the Clerk of the Board website: <https://www.countvotsp.org/2837/Filing-Land-Use-Appeals-Claims>

EXHIBIT A

- Internet RADIO
- INVEST 34
- JOB and CAREER 47
- JOKES&amuse... 12
- LIVINGGREEN 17
- LOCAL interest 2
- Medicare Social S... 3
- misc USEFUL 16
- MOM bills & stuff 50
- MOM CARE 18
- MOM DONATIO... 47
- Notes
- PACHAMAMA, etc
- PSE 85
- purchases 59
- RAV4 17
- re JRH 62
- Recovered Mail
- Recovered Sent Mail
- SANSI
- SavedIMs
- SCHWAB 2011
- SCHWAB 2012
- SCHWAB 2013
- SCHWAB 2014
- SCHWAB 2015
- SCHWAB 2016
- SCHWAB 2017
- SCHWAB 2018
- SCHWAB 2019 6
- SCHWAB 2020 10
- SCHWAB 2021 8
- SCHWAB 2022 22
- SCHWAB 2023 15
- SCHWAB 2024 11
- Schwab MOM 2... 11
- Schwab MOM 2... 10
- STORIES 157
- T-mobile 12
- TRAVEL 2
- TSS
- TUVALU 36
- VVS 5
- Will, ESTATE 22
- WISDOM 94
- WORLD and PO... 49



**Willow Brown**  
**Senior Planner**  
 Planning & Development  
 123 E. Anapamu St.  
 Santa Barbara, CA 93101  
 805-568-2040  
<http://www.countyofsb.org/plndev/home>

\*\*\* Planning and Development has implemented online permitting. You will be able to submit new applications, and Accela will become our primary system. You can register now -- please visit the link below to learn how!

<https://www.countyofsb.org/asset/691df04a-6e8f-4dcf-8fd2-68f969895afd>

**From:** Christopher Horner <[chorn630@aol.com](mailto:chorn630@aol.com)>  
**Sent:** Friday, June 7, 2024 10:25 AM  
**To:** Brown, Willow <[wbrown@countyofsb.org](mailto:wbrown@countyofsb.org)>; Chris Horner <[chorn630@aol.com](mailto:chorn630@aol.com)>  
**Subject:** Re Miramar Hotel expansion plan

This email originated from a source outside of the County of Santa Barbara. Do not open or click on links unless you verify the sender and know the content is safe.

Dear Ms. Brown,

My name is Christopher Horner. As a longtime resident of the neighborhood adjacent to the proposed project, I am writing to let you know of some of my thoughts and concerns regarding the proposed development.

1) I feel that the proposed new stores will bring a commercial impact/aspect that is not in keeping with the current -- and long-standing -- semi-rural feel of the existing residential neighborhood. Additionally, such is not in keeping with the stated mission of the Montecito Association guidelines. Additionally, it will negatively impact the views and serenity of the neighborhood, a local institution and landmark that has set a quiet, human-scale tone for the neighborhood.

2) The development on the north-west side of the Miramar property will surely bring with it attendant pollution and pressured traffic flow in an area which, especially in the summer months, is heavily used with public beach traffic. A full Environmental Impact Report should be undertaken that accurately examines all the other potential impacts of the proposed development, including water, pedestrian and other potential negative practical impacts on the neighborhood and luxury residences. The interim traffic study the Caruso group says it has not accurately completed until all the on and off ramps at San Ysidro are completed.

3) Like many others, I agree that there is a serious shortage of housing in the Santa Barbara area, particularly for medium income workers. The proposed worker housing on the eastern side of the Miramar property (labeled "C" on the plans) would be a welcome part of the solution to this problem. I believe it is disingenuous for the Caruso organization to claim that this lower-cost housing is only possible by the proposed market-rate dwellings and shops in buildings "A" and "B". The Caruso organization can make money from the lower-rent worker housing over the longer term, though it could be by the inclusion of the commercial and luxury housing elements. With the inclusion of these elements, the Caruso organization will be able to offer some of its employees the benefit of living where they work. But again, I believe it is disingenuous to claim, as the Caruso organization does, that the higher-rent elements are absolutely necessary to make the lower-rent worker housing portion justifies the major changes to the proposed development, including the higher rent elements on the western side of the Miramar property.

Aside from everything else, there can be little doubt that the proposed project on Miramar property cannot help but fundamentally push this quiet neighborhood to trafficked "shopping" vibe. At the very least, in a world already well-filled with suc

Compose

← Back → Keep as New Move Delete Spam ...

4

Today on AOL

- New Mail 76K
- Old Mail
- Starred
- Drafts 225
- Sent
- Spam
- Recently Deleted
- Less

Views Hide

- Contacts
- Photos
- Documents
- Subscriptions
- Receipts
- Credits
- Travel

Folders Hide

- New Folder
- Saved Mail 3
- 820 Indiana
- Archive
- ART, Metzinger, ... 28
- Capitalism, Fasc... 25
- CFH aSTUFF 278
- CFH DONATIO... 206
- CNB
- COMPANY RESE... 6
- COOL IDEAS 4
- CT 15
- CT INDIA, CHINA 4
- DESIGN & TECH 84
- DOT tv
- Ellen 40
- ENVIRO 294
- ENVIRO SHOW 416
- Fidelity 2023 8
- Fidelity 2024 10
- FRANCE 3
- Friends & Family 18
- FULLTILT 2011
- GARDEN 3
- GREENTV.com 128
- HEALTH 247

RE: Re Miramar Hotel expansion plan

Aol/Old Mail



**Brown, Willow**  
**From:** wbrown@countyofsb.org  
**To:** Christopher Horner

Thu, Jun 20 at 1:57 PM

Received. thank you Chris.



**Willow Brown**  
**Senior Planner**  
 Planning & Development  
 123 E. Anapamu St.  
 Santa Barbara, CA 93101  
 805-568-2040  
<http://www.countyofsb.org/plndev/home.sbc>

... Planning and Development has implemented online permitting for registered user in order to submit new applications, and Accept a project communication portal. You can register now – please visit now!

<https://www.countyofsb.org/asset/691df04a-6e8f-4dcf-8fd2-68f969895>

**From:** Christopher Horner <chorn630@aol.com>  
**Sent:** Tuesday, June 18, 2024 8:11 PM  
**To:** Brown, Willow <wbrown@countyofsb.org>  
**Subject:** Re: Re Miramar Hotel expansion plan

This email originated from a source outside of the County of Santa Barbara. Do not click or open any links or attachments unless you verify the sender and know the content is safe.

Dear Willow... first, thanks for getting back to me...and for adding me to the case file. repetition of one of the main points in my earlier note to you: the proposed new stores west side of the Miramar property will fundamentally change the feel of the existing neighborhood. Aside from a questionable additional architectural footprint, it will add pedestrian traffic, as well as add luxury shopping to a community which has no need benefit the Caruso group and visitors from outside the local community. The impacts very least those impacts demand further close study in the form of a full EIR that can ALL stakeholders. The Caruso group will surely balk at the delay that such study will their financial aspirations, but again, the nature of the project they propose is major de of the neighborhood and as such requires further detailed scrutiny and discussion by.

Again, respectfully and with thanks for your consideration,

Chris Horner

On Friday, June 7, 2024 at 11:06:44 AM PDT, Brown, Willow <wbrown@countyofsb.org>

Good Morning Chris,

Thank you for your email, I will save these comments to the case file and interested parties to be notified of project updates.

Thanks!

Willow



**Willow Brown**  
 wbrown@countyofsb.org  
 + Add to contacts



EXHIBIT B

Compose

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4

- Today on AOL
- New Mail 76K
- Old Mail
- Starred
- Drafts 225
- Sent**
- Spam
- Recently Deleted
- Less
- Views Hide
- Contacts
- Photos
- Documents
- Subscriptions
- Receipts
- Credits
- Travel
- Folders Hide
- New Folder
- Saved Mail 3
- 820 Indiana
- Archive
- ART, Metzinger, ... 28
- Capitalism, Fasc... 25
- CFH aSTUFF 278
- CFH DONATIO... 206
- CNB
- COMPANY RESE... 6
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- Fidelity 2023 8
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- FRANCE 3
- Friends & Family 18
- FULLTILT 2011
- GARDEN 3
- GREENTV.com 128
- HEALTH 247

10/15/24 re the Miramar Hotel Expansion Project AOL/Sent ☆

**CH** Christopher Horner Tue, Oct 15 at 10:22 AM ☆  
**From:** chorn630@aol.com  
**To:** dwillalo@co.santa-barbara.ca.us, dwillalo@countyofsb.org  
**Cc:** Chris Horner

10/15/24  
Concerning the Miramar Hotel Expansion Project

Dear Montecito and County Planning Commissioners:

Along with many others, I am very concerned with the Caruso Company's desire to rush ahead with the approval of their expansion plan for the Miramar. Among other things, it seems clear they are trying to fast-track approval before a possibly more rigorous County Commission is seated in January 2025.

Few argue with the idea of the Miramar's proposed affordable worker housing, but there are plenty of valid questions about whether the commercial and market rate residential portions of the proposed expansion project are appropriate for the long-standing character of the semi-rural residential neighborhood surrounding the hotel.

Equally important, by attempting to rush ahead without further study of many potential impacts – traffic, flood control, emergency services and evacuation, adequacy of utility infrastructure and more -- the Caruso Company as well as the Commissioners are potentially putting not only neighborhood residents' health and safety in jeopardy, but potentially that of hotel guests and staff as well. The Commissioners, particularly those at the County level by dint of SB 330, are all also putting themselves in an all-too-real potential legal line-of-fire for the possible outcomes of hasty and ill-considered decision-making.

We all learned the hard way in 2017 and 2018 – and similar disasters and lesser emergencies prior to that -- how susceptible Montecito is. At a lesser extreme, with the current highway 101 construction and its accompanying chaos slated to go on into at least 2027 and other projects such as the proposed Music Academy expansion and the Biltmore/ Coral Casino restoration and resumption of operations – all without an overall plan for the entire area of the potential aggregate impacts -- this body is not paying sufficient attention to the health, safety, and wellbeing of a significant portion of its stakeholders for projects that will have very long lives and major impacts on the specific neighborhoods concerned as well as the aggregated area. How do you even do an accurate traffic study with the 101 so torn up? How can a large construction project such as that proposed by Caruso



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- misc USEFUL 16
- MOM bills & stuff 50
- MOM CARE 18
- MOM DONATIO... 47
- Notes
- PACHAMAMA, etc
- PSE 85
- purchases 59
- RAV4 17
- reJRH 62
- Recovered Mail
- Recovered Sent Mail
- SANSI
- SavedIMs
- SCHWAB 2011
- SCHWAB 2012
- SCHWAB 2013
- SCHWAB 2014
- SCHWAB 2015
- SCHWAB 2016
- SCHWAB 2017
- SCHWAB 2018
- SCHWAB 2019 6
- SCHWAB 2020 10
- SCHWAB 2021 8
- SCHWAB 2022 22
- SCHWAB 2023 15
- SCHWAB 2024 11
- Schwab MOM 2... 11
- Schwab MOM 2... 10
- STORIES 157
- T-mobile 12
- TRAVEL 2
- TSS
- TUVALU 36
- VVS 5
- Will, ESTATE 22
- WISDOM 94
- WORLD and PO... 49

occur without causing tremendous additional nuisance to the surrounding areas?

Mr. Caruso and the Miramar have become an important part of this very special community but do NOT own it. Its unique character is part of why they built here in the first place....and part of why guests come here to get away. Combined with the area's beautiful natural attributes, that character has been built over generations. The Caruso Company and both the County and Montecito Planning Commissions are now asked to show respect for the entire community by making sure Montecito is protected from rushed, imprudent and potentially dangerous decision-making. I urge you all to take the time that is required to study the potential impacts with greater care and precision. ( Please see attorney Mark Chytilo's recent brief for further specific details re the above.)

Respectfully,

Christopher Horner  
12-year Resident of the Miramar Neighborhood



[Reply](#), [Reply All](#) or [Forward](#)





## LAW OFFICE OF MARC CHYTILO

A PROFESSIONAL CORPORATION

---

### ENVIRONMENTAL LAW

October 7, 2024

Chair Martinez and Members  
Santa Barbara County Planning Commission  
123 E. Anapamu Street  
Santa Barbara, California 93101

By Email to: [dvillalo@countyofsb.org](mailto:dvillalo@countyofsb.org)

RE: Miramar Expansion Project, Item # 2, October 9, 2024

*Honorable Planning Commissioners:*

This office represents All Saints-by-the-Sea Episcopal Church (All Saints) regarding the Miramar Hotel's proposed expansion and reconfiguration contained in 24RVP-00050, 24RVP-00051, 24AMD-00008, & 24CDP-0007 (Project).

All Saints supports Miramar's proposal to expand on-site affordable housing for its employees, so much so that All Saints prefers that housing was closer to the All Saints church, day-care and senior care opportunities on its own site. The proposed employee housing location raises specific concerns and reservation over the environmental and social justice implications of the proposed location and configuration of Building C so close to the noisy and polluting Highway 101. Further, All Saints has serious substantive objections to the size, bulk, scale and height of Buildings A and B, in particular Building B, which is adjacent to All Saints' grounds and property. As proposed, the Miramar expansion would unnecessarily block long-standing views from the All Saints campus of the Santa Ynez mountains and ridgelines that provide a spiritually- and historically-significant backdrop to All Saints' Church campus.

All Saints believes that the Project could proceed if approval included reconfiguration that entails limiting the height of Building B to one story, which could easily be accomplished by shifting the employee affordable housing to Buildings A & B to be part of the Eucalyptus Lane neighborhood, and shifting the luxury apartments and retail to the eastern side of the resort, elevated above ground-level parking. This "swap" eliminates the need for the expensive and impactful underground parking garage in the northwest corner, provides dignity and a community connection for workers and their families, preserves the significant views of the mountains from the Church's grounds, and retains the integrity of the Eucalyptus Lane setting.

All Saints is located on lands donated by the initial developers of the Miramar in 1900 to provide a church and Sunday school for hotel guests to attend religious services while vacationing in Montecito. Over the past 124 years, All Saints by-the-Sea Episcopal Church has grown into a local institution unique to Montecito with a congregation and spiritual practice specific to its site that is visually and spiritually connected to the mountains and the sea. Not only are the Church's buildings historically significant, the Church's campus and gathering areas have substantial historical character and features, and are eligible for historical recognition as well. The Project

has been proposed in a design and configuration that blocks the Church’s long-standing historical view of the Santa Ynez mountains and violates local and state law protecting historical resources and public views.

As the nearest and most intimate neighbor, All Saints seeks to continue its long history of collaborating with Miramar to enable the Hotel’s success while preserving the sanctity of the All Saints by-the-Sea Episcopal Church’s campus, buildings and grounds. Miramar might be able to realize its expansion plans if it can avoid blocking All Saints’ views of the mountains and respect the sanctity of its neighbors, including All Saints by the Sea.

As is explained below and summarized at the end of this letter, the Project involves a number of potentially significant impacts and involves potential conflicts with the Montecito Community Plan, Local Coastal Plan, Coastal Zoning Ordinance and the California Coastal Act. Additional study and analysis is required of several critical issues to ensure the Planning Commission has the evidence it needs and answers to key questions before considering final action. Because the Project is processed under SB 330, the County is limited to “conducting” no more than five hearings, including any appeal. Due process requires that interested and affected parties have a reasonable opportunity to evaluate evidence and make their case to decisionmakers. **We urge the Commission to direct staff to defer action to formally notice your November 1, 2024 Special Meeting until your Commission is confident it has or will have all information needed to fully evaluate this project and make a decision. If the November 1 Special Meeting is noticed, staff has taken the position that it will count as one of the five hearings even if the hearing is continued.**

Through this letter we have endeavored to identify the principal areas of concerns, but we were not provided access to considerable Project information until last Wednesday, with a submittal deadline of Monday at noon. We ask that your Commission review our list of requested reports and studies, and direct staff and the applicant to commission preparation of information and evidence responsive to the concerns of the Commission, the public, and All Saints by the Sea.

**START HERE**

As the Planning Commission is well aware, the slate of housing legislation from the State has caused agencies to accelerate and shift many processes. The recent decision to vest the County Planning Commission with approval over all affordable housing projects has raised significant community concern. These changes have also left the County with a process that has failed to inform and involve the public.



**A. Process Issues**

**1. Unprecedented County Project Expediting While Withholding Core Project Documentation**

**a. County Manipulation and Mismanagement of Public Review Process**

Your Commission heard on September 26, 2024 during public comment and discussion about the Commission’s projection report the considerable concern from the Montecito community at large, the neighborhoods that will be further impacted by the project, and the Montecito Planning Commission members that the Planning Department excluded without giving consideration to the County Code. There is a public perception that the Director has acted arbitrarily and capriciously in removing the review of this project from the Montecito Planning Commission in favor of your County Planning Commission, then adding in an MPC meeting as an advisory function at the last hearing. While this action may be authorized under a strict reading of § 25.2(b)(3) that allows certain regional projects in Montecito, such as airports, landfills, jails, but included affordable housing projects) should nevertheless be considered by the County Planning Commission, the Planning and Development Department failed to even inform the Supervisors or otherwise consider § 25-2.2(b) that establishes County Planning Commission review was “unless the board of supervisors directs that the Montecito planning commission shall have jurisdiction.” See Exhibit 1, September 20, 2024 Memo from Director Plowman to the Planning Commissions, not to the Board of Supervisors. This decision was taken at the request of the applicant just one day before. Exhibit 2, Letter, Bryce Ross to Lisa Plowman, September 19, 2024.

The decision to schedule three hearings in just over three weeks must be viewed in the context of the SB 330 provisions that limit the county to conducting no more than five hearings in its complete review of the project, including any appeals. The County proceeded to provide formal notice of the first CPC hearing prematurely, and the Planning Director testified to the Board of Supervisors that the October 9 hearing would count as one of the five SB 330 hearings regardless because of this noticing. While the formal noticing of the Planning Commission’s October 9 and the Montecito Planning Commission’s October 18 hearings have been completed, the November 1 hearing will be a continuation of the Planning Commission’s October 9 hearing and may be withdrawn as an agenda item and set for a later hearing without constituting a hearing that is conducted and counted as one of the five hearings.

It is essential that the Planning Commission ensure that it has all the information it needs to make an informed decision at its final of the three scheduled hearings. A critical question is whether the project qualifies for a CEQA exemption and if an exception to the exemption applies. If the Planning Commission lacks adequate information to complete its assessment, including but not limited to CEQA review, and requires additional evidence to make findings on the project, the Chair should inform the Planning Commission Secretary prior to the deadline for

noticing the Special hearing and schedule this item to be heard at a future a date when that additional information will be available for public and decisionmaker review and consideration.

As noted below, information about the project has been made available only last week and the public's access constrained. Importantly, the Project's impact analysis and thus the County's compliance with CEQA has been constrained. It remains in question whether the County will be able to conduct a fair hearing on this project on November 1. Due to the immense public interest in this case, staff has had numerous inquiries and perhaps plan details were still getting settled last week. In general, it appears that the County's schedule for this hearing is unnecessarily rushed for a project as significant to the Montecito community as the Miramar.

b. Limited time for review of newly available documents

The Staff Report, CEQA analysis, and technical environmental impact studies that provide the project description and explain the analysis conducted to date were formally posted and made available to the public on Wednesday October 2. The deadline for written submittals to your Planning Commission is noon on Monday October 7.

Materials provided to the CPC includes an 88 page CDP, 44 pages of conditions, a 20 page Staff Report, 34 pages of plans and a 15 page CEQA Notice of Exemption, which is the first and only form of CEQA analysis released for this large and controversial project. Three technical reports addressing traffic, parking and historical resources total 129 pages. In addition, over a dozen other technical reports, resource entitlement authorizations and content-filled plan sets are part of the project's analysis (addressing, inter alia, stormwater, sea level rise, biology, noise, GHG, air quality, trees, sewer, and water supply) explain and address elements of the project, totaling hundreds of pages of largely dense technical information. While some reports were posted earlier, their significance for CEQA's environmental impact analysis purposes was not clear until the draft CEQA Notice of Exemption was made public. And while these documents were complete and ready for disclosure at least a week earlier for the 10/2 MPC hearing, they were not made available in a manner that would have helped the interested public prepare for your Commission's hearings. See Exhibit 3, 9/24/24 email from Planning and Development Department.

While there is an oblique reference to revisions to a public access easement in the Compatibility section, this is not referenced or described elsewhere. The project description is incomplete.

While we have not reviewed and fully considered all of the information provided to date, there are several important gaps and material issues that can be identified at this time. In your Commission's quest to complete an analysis of this project, the following discussion and lists identify missing and incomplete analysis that your Commission requires to consider findings for this project.

## **B. CEQA**

A meaningful environmental review process is particularly important for this Project to ensure that avoidable and mitigable impacts are identified and reduced to the extent possible. The Project proposes substantial exemption from development standards that ordinarily mitigate a project, and consequently, there is an increased likelihood of impacts, but there must be a process to identify and consider them. SB 330, the HAA and SBDL do not authorize shortcuts in CEQA review. The Planning Commission also requires an environmental review process to identify potentially significant impacts to support its CUP and DVP findings that Project impacts are maximized to the maximum extent feasible. Without an environmental review process, these decisions and actions lack an evidentiary foundation and impact issues wind up being swept under the rug.

### **1. Statutory Exemption Is Not Available**

The Draft Notice of Exemption cites Public Resource Code § 21159.25 as the exclusive authority for its application. This code section provides in its entirety:

Public Resource Code § 21159.25.

- (a) For purposes of this section, the following definitions apply:
  - (1) “Residential or mixed-use housing project” means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.
  - (2) “Substantially surrounded” means at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.
  
- (b) Without limiting any other statutory exemption or categorical exemption, this division does not apply to a residential or mixed-use housing project if all of the following conditions described in this section are met:
  - (1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
  - (2)

- (A) The public agency approving or carrying out the project determines, based upon substantial evidence, that the density of the residential portion of the project is not less than the greater of the following:
  - (i) The average density of the residential properties that adjoin, or are separated only by an improved public right-of-way from, the perimeter of the project site, if any.
  - (ii) The average density of the residential properties within 1,500 feet of the project site.
  - (iii) Six dwelling units per acre.
- (B) The residential portion of the project is a multifamily housing development that contains six or more residential units.
- (3) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses.
- (4) The project site has no value as habitat for endangered, rare, or threatened species.
- (5) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.
- (6) The site can be adequately served by all required utilities and public services.
- (7) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
- (c) Subdivision (b) does not apply to a residential or mixed-use housing project if any of the following conditions exist:
  - (1) The cumulative impact of successive projects of the same type in the same place, over time is significant.
  - (2) There is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
  - (3) The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.
  - (4) The project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
  - (5) The project may cause a substantial adverse change in the significance of a historical resource.
- (d) If the lead agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out the project, the lead agency shall file a notice with the Office of Planning and Research and with the county clerk in the county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.

- (e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

Important authority corollary to this Statutory Exemption is found in two sections further at § 21159.27. Projects not divisible. **“A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article.”**

Thus Public Resource Code § 21159.25 is limited in scope by:

- 1) its eligibility criteria (§ 21159.25(b)(3) “no more than five acres substantially surrounded by qualified urban uses”) and
- 2) the exceptions for projects with potentially significant impacts (§ 21159.25(b)(4-6) to habitat, transportation, noise, air quality, greenhouse gas emissions, or water quality and
- 3) exclusions if the Project involves significant cumulative impacts, significant impacts due to unusual circumstances, damage to scenic resources and substantial adverse change to historic resources. § 21159.25(c).

Since the Project site fails the Public Resource Code § 21159.25 eligibility criteria, the Planning Commission should direct the preparation of an Initial Study and conduct appropriate environmental review of the projects several potentially significant impacts.

## **2. The Site and Project fail to meet the eligibility criteria**

Staff’s analysis improperly piecemeals the “project” and separates it from the remainder of the Resort’s lands and even the beachfront parcel to the south, even though this is an integral part of the Resort project.

CEQA prohibits "piecemealing" to ensure comprehensive environmental review. Piecemealing refers to dividing a project into smaller segments to avoid the requirement of a full Environmental Impact Report (EIR). This practice is discouraged because it can obscure the true environmental impacts of a project.

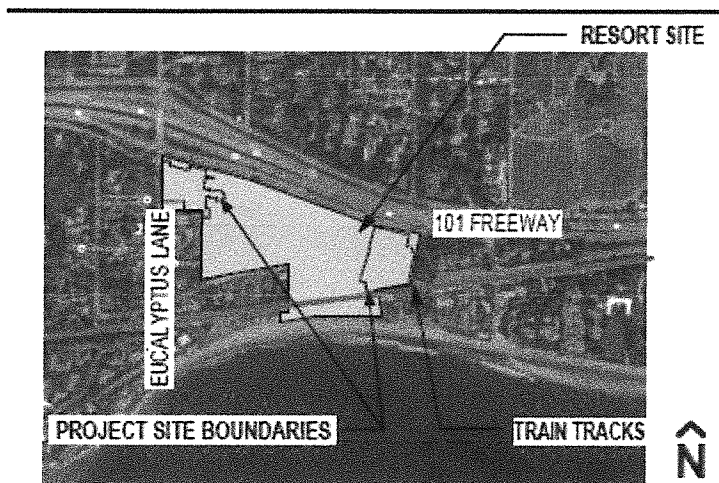
Under CEQA, a lead agency must evaluate the whole of an action and not segment it to avoid full environmental review. The purpose is to prevent project proponents from circumventing CEQA's requirements by splitting projects into smaller parts, each with potentially less significant individual impacts but collectively causing substantial environmental harm.

The question is whether the CEQA statutory exemption applies when a project is piecemealed, and when it comes to the statutory exemption at issue, the Legislature made the prohibition against piecemealing abundantly clear. The Applicant and County cannot piecemeal the Project by creating an artificial ad hoc project boundary in order for the project to qualify for the exemption.

a. The Project Site Exceeds Five Acres

The Project Site is 15.99 acres, not five acres, and certainly not the site size of 3.077 acres in section 5.1 of the staff report. Unlike a Class 32 Categorical Exemption, the language and interpretation of the § 21159.25 Statutory Exemption must be considered in conjunction with and is limited by Public Resource Code § 21159.27 which expressly prohibits piecemealing a project into smaller projects to qualify for a CEQA exemption.

The Plan image below depicts the artificial lines created to piecemeal the Project in order to try to qualify for the Statutory Exemption.



The only reason for dividing the site in this way is to isolate the 3 new elements from the remaining elements of the previously approved project, and avoid a more thorough environmental review process. The proposed changes built further upon the previously exempted Amendments and Substantial Conformity Determinations that made a number of exterior and interior changes, including converting guest rooms to a restaurant, converting the theater into retail, converting portions of the fitness center to retail, and converting a bungalow to retail. This history belies the applicant's past practice of incremental material changes to the project without environmental review. Accompanying these changes have been various changes to parking, also without environmental review.

Even more damning is the reality that the Project entails changes and impacts beyond the 3 acre artificial project parcel, and in other places relies on the other parts of the parcel to maintain zoning consistency. The Staff Report notes that the site's zoning, C-V Resort/Visitor Serving Commercial, requires an oceanfront location to operate. By piecemealing the project and trying to narrow the Project to a subset of the Miramar Project's 15.99-acre parcel, the commercial elements of the project are not authorized under the Coastal Zoning Ordinance for your review and findings. Approval of the commercial elements of the project requires an oceanfront location in order to operate. Coastal Zoning Ordinance § 35-81.1. Piecemealing the instant



project from the rest of the site denies the requisite oceanfront location, exposing the obvious fact that the uses of the commercial space are integral and essential elements of the entire oceanfront site. Similarly, employees residing in the employee housing will not be limited to serving the 3.077 acre portion of the resort, they will undoubtedly provide services to the entire site. The applicant cannot have it both ways, and the contrived isolation of the smaller areas of the parcel is barred by Public Resource Code § 21159.27 and common sense.

The frailty of staff's analysis and lack of evidence to support the necessary findings is found in the § 35-81.7 findings, which requires that the new residential use is secondary to a primary commercial use "on the same lot". The Staff Report and proposed findings compare the new floor area with "the existing [167,142 square foot] resort floor area." Staff Report at page 27. The project can only be approved under the Coastal Zoning Ordinance when the entire resort project and the entire parcel is considered, and as such, the project site for purposes of the CEQA exemption must also be the entire lot. To do otherwise would entail dividing the overall project into smaller projects to improperly qualify for the CEQA exemption in derogation of Public Resource Code § 21159.27. And as noted below, the Project would not require at least two of the waivers if the whole lot is factored in.

b. The Project is not "substantially surrounded" by qualified urban uses

The exemption is not applicable because the southerly boundary of the Project site is the Pacific Ocean, which cannot qualify as an urban use. The Planning Commission is required to review the nature of the uses of the beachfront parcel and determine whether they are rural or urban in nature. "The term 'urban' is 'not fixed, objective, or easily ascertainable,' " but it has been "defined as 'of, relating to, characteristic of, or taking place in a city ... constituting or including and centered on a city ... of, relating to, or concerned with an urban and [specifically] a densely populated area ... belonging or having relation to buildings that are characteristic of cities ... .'" *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal.App.4th 511, 541, 544.

In this question, the Planning Commission must refer and defer to the Montecito Community Plan which declares that "Montecito is a semi-rural residential area of approximately 13 square miles" (p.26) and makes repeated reference to the "semi-rural character and quality of life" (id.). A leading goal of the Montecito Community Plan is to "protect the Semi-Rural Quality of Life". GOAL LU-M-1. The zoning for surrounding areas is DR 4.6 and DR-12 and 1/E-1 zoned parcels. These zones are intended to protect the residential characteristics of an area and to promote a suitable environment for family life." The Montecito Community Plan, including its residential areas, contemplates rural, not urban uses.

The 4 beachfront parcels at the east end between the Project and the ocean, zoned E-1, are sprawling residential uses and not urban in nature. While structural development on the Resort's beachfront parcel includes a bar and restaurant, it is oriented to the ocean and is constructed, at least in part, on top of the beach itself, and includes a substantial, essentially rural element, the Pacific Ocean and the sandy beach.

Without a detailed map of the perimeter of the parcels the applicant is counting it is difficult to determine whether the 75% criteria is met if the whole 15.99 acre parcel is included (and the oceanfront beyond that parcel could not be considered urban) and the subset 3.077 acre parcel is counted, with the 4 E-1 residential lots to the south. A detailed perimeter map of each of these parcels should be produced.

**3. The Statutory Exemption Does Not Apply to the Project Because Exceptions Are Triggered**

The use of the Public Resources Code § 21159.25 exemption is improper because the Project is not consistent with all applicable general plan policies and approval of the Project may result in significant effects related to transportation, air quality and noise.

a. The Project is Inconsistent with the Comprehensive Plan

The Project is not consistent with several policies in the Montecito Community Plan, which has been adopted as an amendment to the Comprehensive Plan; therefore, the Project is not disqualified from CEQA review pursuant to the Public Resources Code § 21159.25 exemption.

The Project is inconsistent with the Montecito Community Plan as follows and as indicated on the attached Exhibit 5:

<b>Montecito Community Plan – Policies</b>	<b>Proposed Project</b>
Policy LU-M-2.1 (p. 48): New structures should be designed, sited, graded and landscaped in a manner which minimizes their visibility from public roads.	The Project’s proposed structures are potentially inconsistent as the 2- story massing of Buildings A and B, and 3-story massing of Building C, and requested setback variances will make the proposed project very visible from all public roads.
Policy LUG-M-1.1 (p.49): The County shall recognize that the Montecito Planning Area is a community nearing its full buildout potential, and shall require that development respect its small town, semi-rural character.	The applicant is requesting an increase in FAR, setbacks as little as 1 foot, 3 inches, and the mass bulk and scale on both frontages does not respect the Montecito small town, semi-rural character.
Policy LUC-M-1.6 (p.52): 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	The 2- story massing of Buildings A & B, and 3-story massing of Building C are inconsistent with the “Cottage Type Hotel” design.

<p>limited to six guest rooms each, which are generally single story in height.</p>	
<p>Policy PRT M-1.6 (p 87): New development shall not adversely impact existing recreational facilities and uses.</p>	<p>Miramar’s pre-existing access points to beach will remain, but the proposed parking modification will worsen on street parking opportunities for members of the public seeking access to the beach.</p>
<p>Policy CR-M-2.1.1 (p. 120): Significant cultural, archaeological, and historic resources in the Montecito area shall be protected and preserved to the extent feasible.</p>	<p>Building B’s two-story element will adversely affect All Saints-by-the-Sea as a historic resource.</p>
<p>Policy VIS-M-1.1 (p.124): Development shall be subordinate to the natural open space characteristics of the mountains.</p>	<p>Massing of Building B limits open space characteristics south of the Project site and blocks views of the mountains.</p>
<p>Policy VIS-M-1.4 (p. 124): Development of property should minimize impacts to open space views as seen from public roads and viewpoints.</p>	<p>Massing of Building A blocks open space views to ocean from South Jameson Lane and U.S. 101 and Building B will impact views of the Santa Ynez mountains from Eucalyptus Lane and from All Saint’s front step viewpoint, where congregants gather before many church functions.</p>

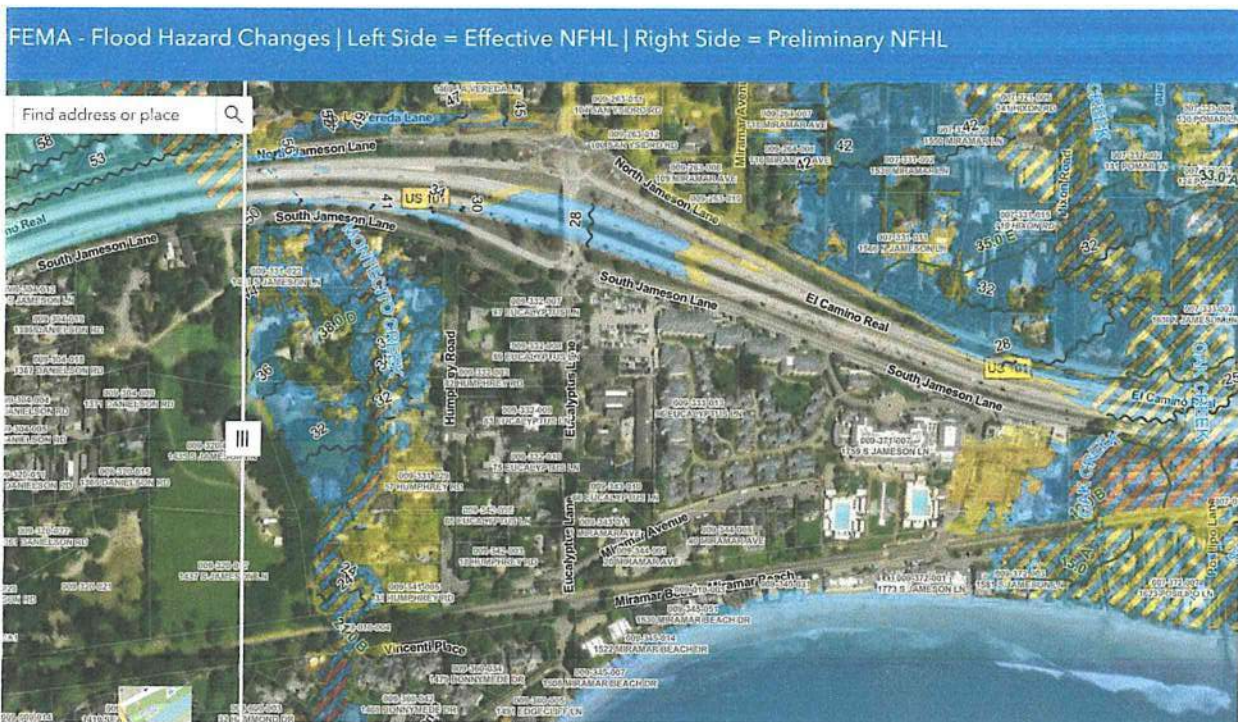
As the Project is clearly inconsistent with several policies outlined in the Montecito Community Plan, which has been adopted as an amendment to the Comprehensive Plan, the Project is inconsistent with the Comprehensive Plan and therefore, does not qualify for the Public Resources Code § 21159.25 exemption.

**b. The Project Is Inconsistent with the Safety Element’s Flood and Geological Risks and Evacuation Policy Requirements**

In response to state law, the County has adopted new language and analysis to the Safety Element that expands emergency evacuation obligations in high risk areas. Montecito experienced these risks and paid a price in lives and massive economic losses for failed emergency preparedness and evacuation planning when the January 8, 2018 debris flows inundated much of the community. The revised Safety Element Policies and other new information require a revised flood vulnerability assessment and enhanced evacuation planning at and near the site. When Highway 101 floods, traffic is expected to be routed onto South Jamison Lane, impacting project site access, coastal access parking, and project and

neighborhood evacuation. The project’s addition of new long term guests and permanent resident employee occupancy to the site has not been considered in previous analysis and represents a new threat and potentially significant impact to public health, safety and welfare, as new project-related evacuation may conflict with and hinder area-evacuation activities and compromise the safety of the general public. The 2018 Debris flow tragedy exemplified the connection between wildfire risk management, flood risk management, and evacuation planning.

FEMA has begun the process of updating its designations of high hazard flood areas. See <https://www.countyofsb.org/2158/FEMA-Remapping>. While the projected frequency of flood risk in an eastern portion of the project area was slightly downgraded, a new area of inundation was identified in the Highway 101 corridor north of the Project and under Eucalyptus Lane.



<https://cosb-ent.maps.arcgis.com/apps/instant/media/index.html?appid=5bacf1aa166b4bf6987665419258d3b3>

Creeks on either side of the project are high flood risk areas and are both expected to hinder evacuation and have demonstrated their ability to do so in the recent past.

Safety Element Actions 7.3.2, 7.3.3 and 8.1.1 mandate enhanced planning, preparation and readiness for emergencies requiring evacuation, including planning for evacuation of persons with disabilities. The project’s increased occupancy creates potentially significant evacuation conflicts with the safe evacuation of persons present at the Friendship Center, and local schools, including the All Saints pre-school.

Geologic and Seismic Protection Policy 4 requires enhanced planning and coordination for emergency evacuation and Implementation Measure 9 requires enforcement of the California Coastal Act and LCP provisions that mandate that new development minimize risks to life and property. Public Resource Code § 30253(a).

Eucalyptus Lane is an unclassified roadway and the Montecito Community Plan directs that land uses “shall reflect the desire of the community to maintain [such unclassified] local roads [ . . . ] below acceptable capacities and Levels of Service for designated roads.” Evacuation planning must address the evacuation “traffic shed” that relies on Eucalyptus Lane for emergency evacuation (Humphrey, Edgecliff, Bonnymede, Miramar Beach Drive) and confirm adequate capacity for safe evacuation of all members of the vulnerable communities in this area in addition to the additional personnel associated with the Project under emergency conditions with Highway 101 flooded and Eucalyptus Lane being the only available means of evacuation egress and emergency responder ingress. See map above.

The Planning Commission must direct the applicant to develop and analysis of the project’s cumulative evacuation demand and promulgate an Evacuation Plan for guests and staff to safely evacuate during a time of vulnerability and heightened risk.

c. The Project May Result in Significant Effects Related to Transportation, Air Quality and Noise

i. *Transportation - Parking*

There is a substantial shortfall of parking associated with the Miramar hotel already, which has led to parking congestion throughout the Project’s area. The studies provided to analyze the parking issue are inadequate and do not provide the level of detail necessary to appropriately analyze the impacts of the Miramar expansion on parking. The importance of adequate parking for the Project is immense as the proposed Project is located in a prime coastal access corridor where parking determines access to the beach. The more limited the parking, the more limited access is to the coast and the greater nuisance to the neighbors. See the separate Parking Analysis, below.

Additionally, there are a number of substantial and nearby development projects proposed for the Montecito area that will impact roadways, intersections and beach access parking cumulatively in conjunction with the Miramar expansion project. These other projects include the Biltmore Hotel, the Montecito YMCA, the Music Academy of the West and 1 Hot Springs Road, along with any other Projects that are proposed or proposing changes to their entitlements. Highway 101 remains a work in progress, resulting in reduced mainline and interchange capacity. Project and other traffic using Jameson Road as the only proximate onramp for southbound 101 traffic introduces increased higher speed traffic in the beach access parking area, where vehicles both seeking to park and exiting beach access parking are extremely steep and must pull across both lanes of Jameson to enter or exit these spaces, increasing conflicts and pedestrian risks. The studies provided by the applicant do not adequately analyze or address the cumulative effects of large-

scale development in the Montecito area on the Project’s transportation impacts and must be addressed in further studies.

*ii. Air Quality*

It is notable that the applicant is seeking to situate its affordable housing units in Building C, which is located directly next to Highway 101, one of the busiest and most congested freeways in the country. The proximity of Building A to Highway 101 will have potentially significant impacts on air quality to the residents of Building A, who will be subject to a steady barrage of fumes and pollution from Highway 101.

Historically, low-income communities and communities of color have been subject to immense levels of pollution in addition to serving as sites of environmentally-degrading facilities, such as factories and waste treatment plants. In order to help address this issue, the State of California and in particular, the Bureau of Environmental Justice, has mandated that government agencies consider potentially significant environmental impacts on communities already burdened with pollution when reviewing and permitting new projects. Moreover, the California Coastal Act requires that communities located in the Coastal Zone account for environmental justice impacts when reviewing proposed development. Pursuant to Public Resources Code § 30107.3(b), “environmental justice” includes, but is not limited to, all of the following:

- “(1) *The availability of a healthy environment for all people.*
- (2) *The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.*
- (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.
- (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.”

Further, Public Resources Code § 30604(h) states that the Planning Commission, when acting on a coastal development permit, “consider environmental justice, or the equitable distribution of environmental benefits throughout the state.”

CEQA requires that a project be consistent with all state and local land use policies, including the Coastal Act. By seeking to construct the proposed affordable housing units directly next to Highway 101 without performing air quality studies to assess the increased risk of pollution to its future residents, the County will be perpetuating a cycle of environmental justice for low-income communities in violation of the Coastal Act and therefore, in violation of CEQA.

*iii. Noise*

Similar to the effects of air quality, the residents of the affordable housing units in Building A will be subject to significant noise from Highway 101. Again, without performing proper studies to assess the increased risk of noise levels to the future tenants of Building A, the County will continue to perpetuate the cycle of environmental injustice for low-income communities in direct violation of the Coastal Act and therefore, in violation of CEQA.

d. Unusual Circumstances Trigger CEQA Review

The § 21159.25 exemption may not be used if the Project: a) involves a cumulative impact; b) if “unusual circumstances” create a reasonable possibility that the project would have a significant adverse environmental impact; c) the project may result in significant damage to scenic resources along a state scenic highway; d) the project site contains hazardous materials or e) the project may cause a substantial adverse change in the significance of a historical resource. Public Resources Code § 21159.25(c)(1-5).

*i. The Project’s Cumulative Impacts Have Not Been Disclosed or Considered*

In the absence of analysis, few impacts appear. The applicant has failed to present any tangible evidence concerning parking adequacy short of a model based on generic book factors. As described in personal testimony and refuted in this letter below (See Parking Analysis), the project’s individual impacts to coastal access parking are significant, and also constitute cumulative impacts.

*ii. The Project May Cause Significant Damage to Scenic Views from Public Places*

The height and massing of Buildings B & C will cause significant damage to scenic views from a public place, which disqualifies the Project from relying on the § 21159.25 exemption, mandates environmental review to assess the Project’s significant impacts on aesthetics, and if not altered, renders the Project inconsistent with the Montecito Community Plan.

CEQA mandates environmental review of a Project’s impact on aesthetics. Among other analyses, a lead agency is responsible for assessing whether a Project will have a substantial adverse effect on a scenic vista and whether it will substantially degrade the existing visual character or quality of the site and its surroundings. A lead agency’s review should not be limited to determining whether a Project will affect public views; instead, the Court of Appeals in *Ocean View Estates Homeowners Association v. Montecito Water District* (2004) 116 Cal. App. 4th 396, 401 has confirmed that private views must be assessed as well (“To say there is no common law right to a private view, is not to say that the District is relieved from considering the impact of its project on such views”).

The proposed Project will have significant environmental impacts on aesthetics based on the size and massing of Buildings B & C, which require the preparation of an EIR. Specifically, Buildings A, B & C are slated to be 2-story and 3-story structures, respectively. The height and massing of each building will have a substantial adverse impact on a scenic vista by blocking both public and private views of the Santa Ynez mountains from Eucalyptus Lane. In particular, the Church's private views of the Santa Ynez mountains from its front steps, which are integral to both its religious practices and status as a historic resource, will be significantly altered. Impacts to the neighborhood's views of the Santa Ynez mountains will substantially degrade the existing visual character and quality of the area.

In addition, the Project is in violation of several policies of the Montecito Community Plan that mandate the protection of public views from new development, rendering the Project in violation of CEQA. Policy LU-M-2.1 of the Montecito Community Plan states that "[n]ew structures should be designed, sited, graded and landscaped in a manner which minimizes their visibility from public roads." The Project's proposed 2-story Buildings A & B and 3-story Building C, and requested setback variances will make the proposed Project visible from all public roads and in particular, Eucalyptus Lane. Policy VIS-M-1.4 confirms that "[d]evelopment of property should minimize impacts to open space views as seen from public roads and viewpoints"; however, the massing of Buildings B & C will limit open space characteristics south of the Project site and block the viewshed of the Santa Ynez mountains from Eucalyptus Lane.

If the Planning Commission approves the Project as is, it will be in violation of the Montecito Community Plan and therefore, in violation of CEQA for inconsistency with a local land use plan.

*iii. Impacts to Historic Resource Precludes Use of a Categorical Exemption*

"Historic resources are accorded special protection under CEQA, and the state must 'take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state' including the protection and rehabilitation of 'objects of historic or aesthetic significance.'" (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1065) "A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment[]" and "[s]uch a project would require the preparation of an environmental impact report (EIR) or a mitigated negative declaration." (*Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1051.)

CEQA disallows use of a Categorical Exemption when a project may cause substantial adverse change to the significance of a historic resource. A "substantial adverse change" in the significance of a historical resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. CEQA Guidelines § 15064.5(b)(1). A historical resource is "materially impaired" when a project demolishes or materially alters in an adverse manner those physical characteristics of the historical resource that account for its inclusion either on the California



Register of Historical Resources or a local register of historical resources. CEQA Guidelines § 15064.5(b)(2)(A-B).

The All Saints-by-the-Sea Episcopal Church (the “Church”) and its campus are eligible for listing as historic resources, and consequently projects that impact those historic qualities must be reviewed as part of an environmental review process.

Historical preservation mandates that character-defining features are protected from adverse changes. The *Secretary of the Interior’s Standards for the Treatment of Historic Properties* defines a character-defining feature as a prominent or distinctive aspect, quality, or characteristic of a cultural landscape that contributes significantly to its physical character, including, but not limited to, *land use patterns*, vegetation, furnishings, decorative details and materials. A character-defining historical feature of the Church is its viewshed of the Santa Ynez mountains, which is also a defining feature of its worship practices. Since its inception in 1900, the Church has emphasized the importance of its location between the mountains and the sea, whether as a resource to serve the patrons of the historic Miramar resort or as consistent and constant testament to the wonders of the natural world.

The applicant is seeking to construct Building B, a two-story building, directly in the sightline of the Church’s historically-significant views of the Santa Ynez mountains. If approved, the Project will physically alter the Church’s cultural landscape, which is a character-defining feature of the Church and part of its basis for eligibility as a Historic Landmark. Moreover, it will significantly impact the historic integrity of the church’s location, design, materials, workmanship, feeling, or association, all of which have been purposely constructed in a manner to emphasize the Church’s connections with the mountains.

As the Project will create a substantial adverse change in the significance of the Church’s cultural landscape, the Project does not qualify for a Categorical Exemption and an EIR must be prepared.

### **C. California Coastal Act Issues**

#### **1. Environmental Justice and Civil Rights Issues**

The applicant has proposed to site the affordable housing elements of the Project in a location and design the building and layout in a manner that maximizes residents’ exposure to adverse environmental conditions from Highway 101, including excessive toxic, hazardous and unhealthy air pollution and high levels of noise between the continuous Highway 101 and periodic extremely loud railroad noise. While not a CEQA issue, this reflects a pattern of discrimination and unfair treatment of the resident employees, who are of lower economic means (most of the housing is restricted to lower income units, and it is well established that hospitality service job employment is typically very low wage and as a practical matter, dominated by people of color). Your Planning Commission can and should consider this issue in considering findings of site suitability and whether the project will be detrimental to the health, safety, comfort, convenience and general welfare of the neighborhood.

“Environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the implementation, and enforcement of environmental laws, regulations, and policies. (Gov. Code, § 65040.12(e).) Fairness in this context means that the *benefits* of a healthy environment should be available to everyone, and the *burdens* of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects. As proposed, the project will unfairly allocate the burdens of pollution and unhealthy living conditions to persons and families of racial minorities and economically disadvantaged communities while reserving the benefits to the affluent and less diverse guest population.

The advantages of an environmental justice analysis and project redesign include healthier children, fewer school days lost to illness and asthma, a more productive workforce, and a cleaner and more sustainable environment. Applying the concept of environmental justice to specific projects requires a careful analysis of how the project’s location, design, and configuration may expose residents to unhealthful conditions and hazards not experienced by others. The Coastal Commission’s Environmental Justice Policy requires the analysis of environmental justice issues in Coastal Commission Staff Reports and consideration of mitigation measures to avoid or mitigate identified environmental justice impacts, and the County should conduct its own analysis and mitigation process to provide dignity and fairness for all persons that will occupy the project, regardless if the stay is for a few days or many years. Indeed, long-term employees and their families residing in the employee housing Building C will be subjected to pollution and noise for a much greater duration, furthering the importance of environmental justice analysis.

The adverse health impacts of living near freeways is well documented, and includes increased exposure to pollutants, including particulate matter, nitrogen dioxide, carbon monoxide, diesel emissions and volatile organic compounds. Chronic exposure to freeway emissions can lead to respiratory problems such as asthma, bronchitis, reduced lung function, heart disease and other respiratory conditions. Children exposed to freeway air pollution experience higher rates of adverse cognitive development and pregnant women have a higher risk of adverse outcomes. Chronic exposure to noise can create stress and anxiety, disturb sleep and trigger higher incidences of mental health issues. While these impacts may be excluded from CEQA review, they are germane to consistency with the California Coastal Act, raise discrimination and civil rights issues, and matters of fairness and equity.

## 2. **Historical Tribal and cultural significance issues**

The project is located on unceded Chumash lands that were part of an extensive village and community complex associated with the historic Chumash village of Shalawa and the myriad other villages and occupants of the area. While the scientific archaeological significance of the site was destroyed decades ago with systematic early plundering and then subsequent landform alterations, the area possesses continuing significance to the first peoples of Montecito. The applicant should undertake consultation with descendants of the area to determine whether the

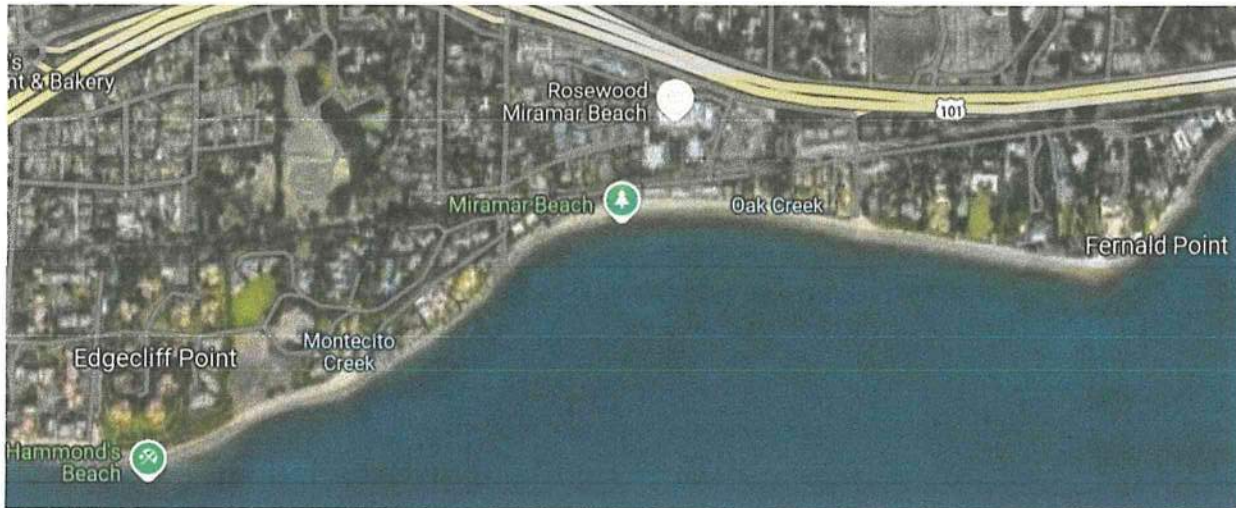
Chumash have stories associated with the site and to provide opportunities for integration of the historic culture and values of the area’s first peoples at the Miramar.

### **3. Parking Shortfalls Impact Surrounding Neighborhoods and Conflict with the California Coastal Act**

#### **a. Coastal Access and Beach Parking**

The California Coastal Act requires that new development “maintain and enhance public access to the coast” through “adequate parking facilities” or substitute (public transportation). California Coastal Act § 30252 (4). The Act seeks to “maximize public access to and along the coast.” California Coastal Act § 30001.5 (c). Already, the Miramar Hotel is noncompliant with its obligation to provide adequate parking. The installation of electric vehicle chargers and the practice of staff parking company and guest cars in public stalls has created additional parking shortfalls. Shortfalls in on-site parking for hotel guests, food service patrons, Miramar Club members and employees cause these individuals to park in designated coastal access sites and on neighborhood streets that have historically provided parking for coastal access.

There are four distinct coastal destinations in the vicinity of the project and that are served by public parking that the Resort has impeded. These include: 1) Hammonds Meadow and the associated County Park, popular for the spiritual acknowledgement of the first peoples to this area and their history of use and occupation of the area as well as the Hammonds surf break that experiences extremely high visitation during periods when surf conditions are prime and is primarily accessed from Eucalyptus Lane through the Blakesley trail; 2) the Miramar surf break, accessed from the end of Eucalyptus Lane; 3) Miramar beach, east of the terminus of Eucalyptus Lane and including the high quality beach in front of the Miramar resort and the houses to its west; and 4) the Fernald beaches east of the Miramar resort, principally accessed from Posilipo Lane and including the creek mouths of Oak Creek, San Ysidro Creek and Romero Creek and the Shark’s Point surf break. Each of these coastal recreation areas is principally accessed by private vehicles that must park in the same neighborhoods and areas that are impacted by Miramar’s parking shortfall. Each of these areas has different users, various patterns of types and timing of use, and each requiring parking in various locations that has become established in accordance with historical practice and availability. Each area experiences peak use and parking demand during the same summer, holiday and weekend periods that the Miramar experiences peak parking demand. When coastal access and beach use parking is congested or unavailable, there is increased traffic circling through neighborhoods of beach-goers looking for parking, idling and double parking near and behind vehicles loading to leave, increased illegal parking to unload beach equipment near access points since parking is typically found far away, and considerable lost recreation time as parking can consume a considerable portion of people’s limited beach time.



Submitted under separate cover is a report by Phil Dracht, California attorney and resident of Humphrey Road. See also Parking Map Analysis and Evidence memo, Exhibit 7. This memo and other evidence demonstrate that the hotel has failed to comply with parking conditions and hotel-related parking in public parking spaces has and is occurring, that the existing parking conditions are inadequate to accomplish what was intended in 2011 and 2015, and the major revision to parking on the project necessitates revisiting and overhauling the project's parking conditions in light of evidence submitted to the record, and a revised parking impact assessment.

When ensuring that the public's coastline access is protected, "the Coastal Act should be broadly construed to encompass all impediments to access, whether direct or indirect." *Surfrider Found. v. Cal. Coastal Comm'n*, 26 Cal.App.4th 151, 158 (1994).

Even collecting parking fees could be considered a potential impediment to coastal access, *see Surfrider Found.* In the present case, the hotel's valet parking scheme will likely result in restaurant-goers continuing to park in the conveniently-located no-cost public stalls, rather than pay a fee to valet park just for a meal or drink at the bar. *See Dracht (2024)*. Accordingly, the hotel will have indirectly impeded public coastal access. Additionally, it is possible (even likely given the hotel's continuous lack of compliance) that employees will fail to properly prevent guests from using public parking spaces or surrounding neighborhoods, *see Dracht (2024)*. Employees might also not actually tag their "primary car" and utilize an untagged car to park, either regularly or occasionally. That 87 additional public parking stalls will be added and employee vehicles tagged could thus be a toothless mitigation. There is ample potential for subtle, indirect impediments to coastal access. These impediments must be considered and addressed.

#### **D. The Waivers and Reductions are Unnecessary and Not Justified**

Gov. Code § 65915(e) requires approval of waivers of development standards that will have the effect of physically precluding the construction of the development. Waivers # 1 and 4, FAR

and open space, are not necessary because the area of the proposed development should be divided by the project's full 15.99 acres.

As noted above, the project proposes to erect a building in a previously open area that has been part of All Saints by-the-Sea Episcopal Church for 124 years, and is an essential element of the Church's exercise of their doctrine connecting God to the Earth, from the mountains to the sea. All Saints campus is eligible for listing and would be currently listed as a County Landmark but for the County's inability to set the Historic Landmarks Advisory Committee's first designation recommendation in the 90 day period set by Chapter 18.

The MPC should instruct the applicant and staff to work to revise the project to lower the elevation and avoid a second story for Building B to protect the public viewshed from All Saints by the Sea.

#### **E. Findings Cannot be Made**

Findings are central to the Planning Commission's review and action on the Project. there is incomplete and inadequate information to support findings regarding the availability of public services, neighborhood compatibility, General Plan consistency, historical resources, project parking facilities and coastal access parking.

##### **1. California Environmental Quality Act Findings**

The CEQA findings are summary and patently inadequate, citing no facts or analysis.

##### **2. General Plan Conformity Findings**

The Notice of Exemption conflates a smaller subset 3.077 acre parcel and larger 15.99 parcel for purposes of the General Plan conformity findings. Findings of conformity with the Montecito Community Plan, Local Coastal Plan, Coastal Zoning Ordinance and California Coastal Act cannot be made.

##### **3. CDP Finding C.2. Cannot Be Made**

CDP Finding C.2 requires a finding that the development will not adversely impact recreational facilities and uses. As demonstrated through photographic evidence, the report submitted by Phil Draught, and extensive public testimony, the operation of the Miramar has adversely impacted the availability of public coastal access parking. The applicant's parking analysis is deeply flawed, and has failed to recognize the impact of past operations on beach access parking for the four separate beach activity areas The project will exacerbate these problems by adding guests, reducing parking further

#### 4. CUP and DVP Revision Findings Cannot be Made

Operation of the Miramar in a coastal residential area has conflicted with and caused continuing harm and inconvenience to the surrounding neighborhood. The neighborhood compatibility findings required for these actions, as well as the CUP Amendment, are not supported by evidence and cannot be made.

#### Our Ask

We request that the Planning Commission direct the preparation of several additional studies and reports to inform your Commission, the Montecito Planning Commission and the public about Miramar's proposal, and help provide a path for an acceptable project. Since the Project entails a number of potentially significant impacts and areas of neighborhood incompatibility, and some of the submitted studies have substantial flaws and other issues have not been addressed, we request that the Planning Commission direct preparation of the following studies and analysis to inform review of this Project:

- a revised and expanded historical analysis
- a comprehensive visual simulation of the viewshed from the All Saints grounds
- a revised comprehensive regional off-site parking analysis (Hammonds to Fernald Point – the area impacted by Project-associated parking) based on physical observations and counts, not a model, that includes: 1) an analysis of the adequacy of neighborhood public coastal access parking in the areas including to the east Humphrey and Eucalyptus Roads, Miramar Avenue and to the west Posilipo Road and Fernald Point Lane, where the public parks to access beaches from Hammonds to Fernald Point and where there is evidence of Miramar-associated parking taking place; and 2) a historical delineation by each project phase the number of total parking places, the number designated for a specific use, including coastal access parking, and the adequacy of that amount of parking to meet the Hotel's needs and assessment of the adequacy of the hotel's past on-site parking and whether past parking supply has been adequate to avoid infringement upon parking needed for public coastal access
- a neighborhood evacuation capacity analysis assessing whether Project evacuation would conflict with other neighborhood residents evacuating in response to flooding, and a model of how the community could safely evacuate in a combined risk scenario, such as flooding of FEMA flood areas combined with an uphill debris flow reaching the ocean
- an environmental justice assessment, evaluating Building C's ambient environmental conditions (noise, air pollution from Highway 101 and parking activities, flood evacuation risk, etc) and determining if applicable and aspirational environmental justice standards are being addressed
- Enhanced Transportation Management Plan, including parking allocations for golf carts and site service vehicles and insignia/identification program for banquet, restaurant and bar patrons to deter use of public coastal access parking
- First People's and Descendant Outreach, interests evaluation and acknowledgement study

- Air quality hot spots analysis, both interim addressing conditions during Highway 101 construction and operational once the highway is completed and congestion reemerges per the Caltrans project analysis
- Solid Waste generation, management and disposal analysis – most solid waste management areas in the project are undersized for projected volumes and diversion programs require additional sorting, processing and storage space

The Coastal Zoning Ordinance requires the adoption of specific findings before approving the projects, including that significant impacts are mitigated to the maximum extent feasible, 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, and that the project is in conformance with the applicable provisions and policies of the Coastal Zoning Ordinance and Coastal Land Use Plan. § 35-172.8 (CUP). As shown below and in testimony and evidence before your Commission, project impacts to views, historical resources and parking will be significant as proposed and are not mitigated. The project will have a detrimental effect to the health, safety, comfort, convenience, and general welfare of the neighborhood, including All Saints by-the-Sea Episcopal Church who will lose a key *raison d'être* from the blockage of religiously significant views of the mountains and thus be greatly inconvenienced, from having to either change their spiritual focus or relocate to a more appropriate setting. Currently, Miramar staff and guests make regular and substantial use of parking spaces dedicated for coastal access, both impeding public access to the beach in violation of the California Coastal Act and causing excessive driving, idling and lane blockage and uncontrolled parking by would-be beachgoers throughout the Eucalyptus Road and Humphrey Lane neighborhoods, detrimentally impacting the safety, comfort and convenience of area residents and visiting beachgoers.

The MPC should not schedule a future hearing for this project until all these reports are completed, are subjected to independent peer review, and are made available to the public for at least 30 days for independent review and analysis. Your Planning Commission should direct the applicant to ensure that materials are properly prepared and responsive to MPC's direction, and that staff and the public have a reasonable opportunity to review and analyze all project documents well in advance of the next hearing.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO, APC



By: Marc Chytilo

**Exhibits**

1. Memo, Planning and Development Department Director Plowman to CPC and MPC, 9/20/24
2. Letter, Bryce Ross to Lisa Plowman, 9/19/24
3. Email, Willow Brown to Marc Chytilo re: project document management, 9/24/24
4. Puchulski-Miramar Grant of Easement and Declaration of Restrictive Covenants, dated April 6, 2015, recorded as 2019-0001255 January 11, 2019
5. MPC and LCP Conformity analysis
6. Long Historical Preservation, 10/7/24
7. Memo, Evidence of Parking Shortfalls and Miramar use of Public Coastal Access Parking Spaces, 10/6/24
8. Memo, All Saints-by-the-Sea Episcopal Church Historic Viewshed