

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT
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**Th13b**

Appeal Filed: 12/27/24
 49th Working Day: Waived
 Staff: D. Gonzalez - V
 Staff Report: 3/20/25
 Hearing Date: 4/10/25

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

APPEAL NUMBER: A-4-STB-24-0055

APPLICANT: Miramar Acquisition Co., LLC

APPELLANTS: Heal the Ocean, and Unite Here Local 11

LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions of Coastal Development Permit No. 24CDP-00077

PROJECT LOCATION: 1759 South Jameson Lane (APN: 009-371-007) and 96 Eucalyptus Lane (APNs: 009-333-013 & 009-010-004), County of Santa Barbara

PROJECT DESCRIPTION: Construction of 54,768 sq. ft. of mixed-use development consisting of 26 affordable housing employee units, 8 market-rate housing units, and 17,500 sq. ft. of commercial spaces consisting of up to 12 resort retail shops and a resort café.

STAFF RECOMMENDATION: No Substantial Issue Exists

MOTION & RESOLUTION: Page 8

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS

The Commission's role at the "substantial issue" phase of an appeal is to decide whether the appeal of the local government action raises a substantial issue with respect to the grounds on which the appeal was filed, which can include a claim that the approved development is not in conformity with the applicable provisions of the certified Local Coastal Program (LCP) or with the public access policies of the Coastal Act (Pub. Res. Code §§ 30210-14). Staff recommends that the Commission, after a public hearing, determine that **no substantial issue exists** with respect to the grounds on which the subject appeal has been filed. The **motion** and **resolution** for a "no substantial issue" finding are found on **page 8**.

The subject coastal development permit (CDP) for the project was approved by the County of Santa Barbara Planning Commission on November 1, 2024. This action was then appealed to the Board of Supervisors by Julie Teufel, Christopher Horner, Heal the Ocean, Unite Here Local 11, and Clifford Sherson. Ultimately, the Board of Supervisors upheld the Planning Commission's action, thereby approving the subject CDP on December 10, 2024 for the construction of 54,768 sq. ft. of mixed-use development consisting of 26 affordable housing employee units, 8 market-rate housing units, and 17,500 sq. ft. of commercial spaces consisting of up to 12 resort retail shops and a resort café at the existing Rosewood Miramar Beach Resort ("Resort") located at 1759 South Jameson Lane and 96 Eucalyptus Lane within the Montecito Community in the unincorporated area of Santa Barbara County (Exhibits 1-2).

The project site is located on a 16-acre property and is zoned C-V (Resort/Visitor Serving Commercial). The site does not contain any environmentally sensitive habitat areas. The Resort is currently developed with 154 hotel guest rooms, 8,481 sq. ft of resort shops, four (4) affordable employee housing units, restaurant/bar, 400-guest banquet facility, spa facility, and 435 onsite parking spaces. In addition to the 435 parking spaces, 87 public parking spaces are also located partially on the Resort site along South Jameson Lane, Eucalyptus Lane, and Miramar Avenue and provide for beach parking to the nearby Miramar Beach. These 87 public parking spaces were provided to offset the loss of public parking spaces from the development of the Resort.

The project was processed under the Housing Accountability Act (Government Code Section 65589.5) and also utilized the State Density Bonus Law (Government Code Section 65915). Moreover, the total 34 residential units will help meet the County's Housing Element's housing goal for the site and contribute to the County's Regional Housing Needs Allocation (RHNA) obligation to meet the housing needs of the State, County, and region. The 26 affordable employee housing units will remain affordable for the life of the development.

The residential and commercial development will be located in the existing northwest and northeast parking lots. Development in the northwest parking lot will consist of two new mixed-use residential and commercial buildings (Building A and Building B). Specifically, Building A will have a maximum height of 33'-5, and Building B will have a maximum height of 30'-2." Both Buildings A and B will consist of (4) four market-rate apartments on the second floor of each building and commercial space on the first floor. There will be up to 12 resort shops that will be resort/visitor-serving light commercial uses similar in nature to the existing resort shops on site, such as resort-oriented

clothing shops, jewelry stores, and wellness/beauty shops. Additionally, a subterranean parking lot with 79 parking spaces will be located under Buildings A and B. Development in the northeast parking lot will consist of one new residential building with a maximum height of 40'-9" (Building C), which will contain all 26 affordable employee housing units and a reconfigured parking area with 350 spaces south of the residential building.

The appellants, Heal the Ocean and Unite Here Local 11, contend that the approved project is not consistent with the policies and provisions of the County of Santa Barbara's certified LCP related to public access and recreation, environmentally sensitive habitat (ESH), water quality, coastal hazards, visual resources, community character, and environmental justice. The main contention raised in the appeals and in public correspondence received argues that the current Resort generates excessive traffic and does not provide sufficient parking, leading to spillover into adjacent streets and public parking, and the approved project to add residential and retail/commercial development at the Resort is expected to further increase parking demand, therefore resulting in impacts to surrounding public parking, negatively affecting public access to the beach and other coastal resources. To support their parking and traffic allegations, the appellants cite personal observations, photographs, and videos to support their claim.

The County's LCP emphasizes the need to enhance public access to the coast by requiring safe and adequate off-street parking be provided for new development. The availability of adequate parking to serve development promotes public access. When private development fails to provide adequate vehicle parking on site, parking spaces that would otherwise be available to general coastal visitors can end up serving the private development instead, displacing coastal visitors' opportunity to park near coastal amenities. In this case, the project requires a total of 83 parking spaces pursuant to the County's LCP. However, the County granted a parking modification to reduce the required off-street parking spaces from 83 to 44, for a reduction of 39 parking spaces. As a result, the total parking supply on the Resort after buildout will be 480 (435 existing onsite and 44 new parking spaces) distributed throughout the site (Exhibit 3).

The County's LCP allows for modifications to parking requirements and encourages the efficient use of commercial parking spaces. This approach enables the total parking requirements for mixed uses developments to be based on the number of spaces necessary to accommodate the various needs of individual uses during the Peak Parking Period. The County approved the parking modification based on the findings of a peer-reviewed parking analysis that utilized a shared parking model. This parking model assessed the peak parking demands of the existing resort development and the new development during periods when the hotel, restaurants, and beach club would be busiest. The peak parking demand was estimated to be 462 spaces, which is lower than the approved parking total of 480 spaces.

Moreover, the County Department of Public Works reviewed and approved the project's submitted traffic and parking studies. The County determined that the project would not significantly impact parking and traffic in the area. Additionally, the County conditioned the CDP to include several measures and protocols. These requirements consist of a

parking plan, transportation demand management program, designated traffic coordinator to inspect the public parking spaces, notices to inform guests of parking procedures and locations, parking signage, a parking decal program, and annual compliance reports to ensure that resort guests and employees do not utilize the nearby public parking. Moreover, the County has indicated that the currently required parking plan and TDM program have been effective, based on the five years of reporting. Furthermore, the Resort has submitted annual parking compliance reports and has operated in substantial compliance with all permit conditions. Lastly, the County states that no current violations exist on the property.

Based on the information in the record and the project specific parking analysis that allows for a reduction in parking requirements as specified in the LCP, the County found that the project will not adversely impact public access to nearby beaches. The County's findings are supported by evidence and, as conditioned, the approved CDP is consistent with Coastal Act and LCP policies, which require maximum public access to the coast. Thus, the appellants' contentions regarding public access do not raise a substantial issue.

Heal the Ocean also alleges the approved development is in areas subject to potential flooding and mudslides and within a FEMA-mapped flood zone, and given that sea level rise cannot be accurately predicted, potential impacts from the project have been underestimated. The appellant further alleges the project violates the Commission's Environmental Justice Policy because the affordable housing units are located within a flood zone. In this case, the 26-unit affordable employee housing units (Building C) is located within a designated FEMA Flood Zone with a 1% Annual Chance Flood Hazard (Zone AE) under the currently applicable FEMA Flood Maps. The project's finished floor elevations are based upon the County's most current 2024 Recovery Mapping for the site and include the required 2 feet of freeboard, consistent with the LCP. The approved project has been reviewed and conceptually approved by the County Flood Control District and has been designed to ensure the safety of its occupants. For these reasons, the County's action included ample findings and evidence determining that the approved project would minimize risks from coastal hazards in compliance with the coastal hazard policies of the LCP.

Furthermore, the project site is situated on an infilled lot currently developed with an existing Resort located along the coast of Montecito in the unincorporated area of Santa Barbara. The surrounding census tracts have a low overall composite CalEnviroScreen¹ score and low air pollution burden. The surrounding area is not considered low-income,

¹ CalEnviroScreen is a tool developed by CalEPA's OEHHA that generates a single cumulative impact score by combining 21 different environmental justice indicators to compare census tracts throughout the state.

as defined by AB 1550², and show a predominantly white population³. The approved affordable housing employee units will help address the pressing need for affordable housing in the coastal zone, particularly supporting low-income workers, which also supports the provisions of equitable access consistent with the Commission's adopted Environmental Justice Policy.

Lastly, in its action, the County found that no significant coastal resources will be affected by the project. The project site is an infill lot adjacent to existing single-family residences and commercial uses and is located in a developed urban area of the County. There are no significant coastal resources and no environmentally sensitive habitat areas on the site that would be negatively affected by the project, and the project will be compatible with the surrounding area and will have no adverse impact on visual resources or public access. To conclude, the County's action included findings and evidence in support of its conclusion that the approved development is consistent with the relevant policies and provisions of the County's LCP.

In summary, the County's record includes extensive factual evidence and legal support for the County's findings that the project is consistent with the policies and provisions of the County's LCP. In addition, the extent and scope of the subject development on this particular site is relatively small, does not have a significant adverse effect on significant coastal resources, does not raise issues of regional or statewide significance, and the local action does not set an adverse precedent for future interpretations of Santa Barbara County's LCP. Therefore, staff recommends that the Commission find that the appellants' contentions raise no substantial issue with regard to the approved project's consistency with the policies and provisions of the County of Santa Barbara's certified LCP.

² AB 1550 identifies "Low-income communities" as census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low-income by HCD's State Income Limits. A threshold of twice the federal poverty level is typically used because California's cost of living is higher than many other parts of the country.

³ "White population" was calculated through selection of all individuals that self-identified as White and not Hispanic/Latino in ethnicity in American Community Survey 5-Year Estimates (2015-2019) pulled from CalEnviroScreen 4.0.

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EXHIBITS

[Exhibit 1 Vicinity Map](#)

[Exhibit 2 Aerial Photo](#)

[Exhibit 3 Project Plans](#)

[Exhibit 4 Appeal by Heal the Ocean](#)

[Exhibit 5 Appeal by Unite Here Local 11](#)

[Exhibit 6 Notice of Final Action and Final Board of Supervisors Board Action Letter](#)

APPENDICES

Appendix 1 Substantive File Documents

I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of a local government's Local Coastal Program (LCP), the local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

Appeal Areas

Approvals of CDPs by cities or counties may be appealed if the development authorized is located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea; within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is greater; on state tidelands; or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff (Coastal Act Section 30603(a)). Any developments that constitute major public works or major energy facilities may also be appealed to the Commission (Coastal Act Section 30603(a)(5)).

In this case, the County's CDP approval is appealable to the Coastal Commission because the project site is located in an appealable area between the sea and the first public road paralleling the sea. As such, the County's CDP for the subject project is appealable to the Commission.

Grounds for Appeal

The available grounds for an appeal of a local government approval of development are limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (Coastal Act Section 30603(b)(1)).

Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the "substantial issue" question. A majority vote of the Commissioners present is required to determine that an appeal raises no substantial issue and that the Commission will therefore not review the CDP application *de novo*. If the Commission determines that no substantial issue exists, then the local government's CDP action will be considered final.

De Novo Permit Hearing

Should the Commission determine that a substantial issue exists, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified LCP and, if the development is between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act (Coastal Act Section 30604(b) & (c)). If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

The project that is the subject of this appeal was approved by the County of Santa Barbara (County) Planning Commission on November 1, 2024. The action by the Planning Commission was appealed to the Board of Supervisors by Julie Teufel, Christopher Horner, Hillary Hauser representing Heal the Ocean, Jordan Sisson representing Unite Here Local 11, and Clifford Sherson within the local appeal period. On December 10, 2024, the Board of Supervisors denied the appeal and approved the subject project.

The County's Notice of Final Action was received by Commission staff on December 12, 2024 (Exhibit 6). Commission staff provided notice of the ten working-day appeal period, which began on December 13, 2024, and ended on January 13, 2025. Two appeals (by Heal the Ocean and Unite Here Local 11) of the County's action were filed on December 27, 2024, during the Commission's appeal period (Exhibits 4-5). Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals and requested that the County provide its administrative record for the permit. The County's administrative record was received on January 13, 2025. Pursuant to Section 30621(a) of the Coastal Act, a hearing on an appeal must be set no later than 49 working days after the date on which the appeal was filed with the Commission; however, according to Section 30625(a), the applicant can waive that time limit. The time limit was waived by the applicant on January 10, 2025.

II. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-STB-24-0055 raises NO substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. If the Commission finds **No Substantial Issue**, the Commission will not hear the application de novo, and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-4-STB-24-0055 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The subject coastal development permit (24CDP-00077) approved by the County of Santa Barbara (“County”) is for the construction of 54,768 sq. ft. of mixed-use development consisting of 26 affordable housing employee units, 8 market-rate housing units, and 17,500 sq. ft. of commercial spaces consisting of up to 12 resort retail shops and a resort café at the existing Rosewood Miramar Beach Resort (“Resort”) located at 1759 South Jameson Lane and 96 Eucalyptus Lane within the Montecito Community in the unincorporated area of Santa Barbara County (Exhibits 1-2). The affordable housing employee units will remain affordable for the life of the development. The project was processed under the Housing Accountability Act (Government Code Section 65589.5) and also utilized the State Density Bonus Law (Government Code Section 65915). Information on these two laws is provided further below.

The project site is located on a 16-acre property developed with an existing beach resort (Miramar Beach Resort). The subject property is zoned C-V (Resort/Visitor Serving Commercial) and consists of three parcels (APNs 009-371-007, 009-333-013, and 009-010-004). The Resort is currently developed with 154 hotel guest rooms, 8,481 sq. ft of resort shops, four (4) affordable employee housing units, restaurant/bar, 400-guest banquet facility, spa facility, and 435 onsite parking spaces. The Miramar Resort was approved by the County in 2015, and the Resort was completed in 2019.

The Resort is situated just south of U.S. Route 101 and north of Miramar Beach and the Pacific Ocean (Exhibit 1). It is primarily surrounded by single-family residential properties. The All Saints-by-the-Sea Episcopal Church and Parish School (Church) is located directly south and adjacent to the project site, along Eucalyptus Lane. A parcel owned by Union Pacific Railroad, which includes train tracks, is located south of the project site.

The approved development is limited to two existing surface parking areas (project site) located in the northwest (Northwest Lot) and northeast (Northeast Lot) portions of the Resort and comprising approximately 3-acres. The project site includes a portion of the public right-of-way along Jameson Lane adjacent to the northwest portion where minor improvements were also approved. No construction will occur on the remaining 13 acres of the Resort property. The two parking lots are relatively flat, with 2-3% slopes. An offsite environmentally sensitive habitat (ESH) area around Oak Creek is located near the eastern boundary of the project site.

Project Description

The residential and commercial development will be located in the existing northwest and northeast parking lots. Development in the northwest parking lot will consist of two new mixed-use buildings, Building A and Building B. Building A will be 16,597 square feet, with 8,573 square feet of residential development and 8,024 square feet of commercial space. Building A will have a maximum height of 33'-5". Building B will be 20,786 square feet, with 11,310 square footage of residential development and 9,476 square feet of commercial space. Building B will have a maximum height of 30'-2". There will be eight market-rate apartments (four on the second floor of each building) comprised of one one-bedroom unit, four two-bedroom units, and three three-bedroom units. The first floor of the buildings will be commercial space, including 15,000 square feet of resort shops and a 2,500 sq. ft. café. There will be up to 12 resort shops that will be resort/visitor-serving light commercial uses similar in nature to the existing resort shops on site, such as resort-oriented clothing shops, jewelry stores, and wellness/beauty shops. Additionally, a subterranean parking lot with 79 parking spaces will be located under Buildings A and B.

Development in the northeast parking lot will consist of one new residential building, Building C. Building C will be 19,102 square feet and will have a maximum height of 40'-9". There will be 26 affordable employee apartments comprised of nineteen (19) studio units, one (1) one-bedroom unit, and six (6) two-bedroom units. These affordable employee apartments will consist of nine (9) very low-income units, nine (9) low-income units, and eight (8) moderate-income units. The applicant has also proposed to continue the affordability of the very low-, low-, and moderate-income units for the life of the development.

To the south of Building C, there will be a reconfigured parking area with 350 spaces comprised of 113 striped surface spaces, 60 valet spaces, 126 car stacker spaces, and an elevated parking deck with 42 striped spaces and 10 valet spaces. Additionally, the County approved a modification to reduce the required number of parking spaces to be provided for the residential and commercial development from 83 parking spaces to 44 spaces, for a reduction of 39 parking spaces.

The approved project also includes 14,372 sq. ft. of new landscaping, and grading will include 17,650 cubic yards of cut (17,300 cubic yards of which is for underground parking) and 800 cubic yards of fill in the northwest lot and 4,300 cubic yards of cut and 1,500 cubic yards of fill in the northeast lot. Further, the project includes the removal of 50 landscaping trees within the two existing parking lots.

Housing Accountability Act

The Housing Accountability Act (HAA), codified at Government Code Section 65589.5, prohibits a local government from disapproving housing projects for lower or moderate-income households or emergency shelters, or conditioning approval in a manner that renders the development infeasible, unless the local government makes one of five

narrow written findings. HAA also requires a local government to support a decision to disapprove a housing development project, or to approve it on the condition that it be developed at a lower density, with findings that the project would have a specific, adverse impact upon public health or safety that cannot feasibly be mitigated when the project complies with the objective general plan and zoning standards that were in effect at the time of the application was deemed complete. Additionally, the HAA shall not be construed to relieve the local agency from complying with the California Coastal Act of 1976. In this case, the approved project qualified and was processed under the Housing Accountability Act, given the project is a mixed-use development consisting of residential and non-residential uses with at least two-thirds of the proposed square footage designated for residential use.

State Density Bonus Law

Density bonuses incentivize developers to build housing by waiving certain development standards for projects that provide a certain percentage of housing for moderate- and lower-income households or certain demographics, such as seniors. The State Density Bonus Law (DBL), codified in Government Code Section 65915, allows developers to build a residential or mixed-use housing project at a higher density than is permitted by the underlying zoning when the project includes a certain percentage of affordable housing, senior housing, common interest development, transitional housing, or student housing.

In addition, DBL requires a city or county to provide a certain number of “incentives” or “concessions” to any project that qualifies for a density bonus, depending on the percentage of affordable units provided. Incentives/concessions are defined jointly to include reductions in height, setback, square footage, and parking requirements; approval of mixed-use zoning; or any other proposal that would enhance the financial viability of the project. A developer is also entitled to waive or reduce any development standard in order to accommodate any density bonus or incentive/concession allowed by DBL. Examples of waivable development standards include lot coverage, open space requirements, public amenities, setbacks, and architectural design standards. DBL requires local governments to adopt an ordinance specifying how they will comply with the law, which can be integrated into LCPs to ensure such standards are applied in the coastal zone in harmony with Coastal Act obligations. Effective as of January 1, 2021, Assembly Bill 2345 (“AB 2345”) amended the Density Bonus Law to reduce the parking ratios that a locality must utilize for qualifying projects. Specifically, AB 2345 amended the parking ratio to decrease requirements for two- and three-bedroom units from 2 spaces to 1.5 spaces.

In this case, the project approved 34 new multi-family residential units, nine of which will be rented to very low-income households earning 30% to 50% of the Area Median Income (AMI), nine of which will be rented to low-income households earning 50% to 80% of the AMI, and eight of which will be rented to moderate-income households earning 80% to 120% of the AMI. The project approved approximately 53% of the units at a low-income level. The applicant has proposed as part of the project description to require that all 26 affordable housing employee units remain affordable for the life of the development, and this proposal is reflected under Condition of Approval No. 1 of the

subject County-approved CDP. Moreover, the total 34 residential units will help meet the County's Housing Element's housing goal for the site and contribute to the County's Regional Housing Needs Allocation (RHNA) obligation to meet the housing needs of the State, County, and region.

Projects that propose at least 24% of units at a low-income level are eligible for a 50% density bonus, three incentives/concessions, and any number of waivers that meet the statutory criteria. The applicant did not propose to utilize the density bonus or the available incentives/concessions. However, the County approved the project with five waivers/reductions pursuant to the State Density Bonus Law. These requests are described below:

1. CZO Section 35-203 – Floor Area Ratio. Request to increase the allowed Floor Area Ratio for C-V Zone from 0.25 to 0.29.
2. CZO Section 35-81.9 – Height Limit. Request to allow a height of 40'-9" for Building C in lieu of the 38' height limit for the C-V zone.
3. CZO Section 35-81.9 – Height Limit. Request to allow three stories for Building C in lieu of the two stories allowed for development surrounded by areas zoned residential.
4. CZO Section 35-81.11 – Open Space. Request to allow a reduction in the requirement for common open space from 40% of the net lot area to 27.74% of the net lot area.
5. CZO Section 35-81.8 – Setbacks for Buildings and Structures. Request to reduce the required front, side, and rear setbacks for Buildings A, B, and C and the parking areas.

Public Correspondence

Correspondence received from members of the public before the publication of the staff report is included in correspondence file for this item. These correspondences raise similar issues to those raised by the appeals that are addressed by the following sections of this staff report.

B. SUMMARY OF APPEAL CONTENTIONS

The County's final action on the subject CDP was appealed to the Commission by Heal the Ocean (filed December 27, 2024) and Unite Here Local 11 (filed December 27, 2024). The appeals are attached as Exhibits 4 and 5 and are summarized below. The primary issues raised in the subject appeals relate to public access and recreation, environmentally sensitive habitat (ESH), water quality, coastal hazards, visual resources, community character, and environmental justice. The contentions of the appeals are discussed and addressed in greater detail below in Section III.C Analysis of Substantial Issue. Where contentions of the two appeals raise overlapping issues, they are discussed together.

Appeal by Heal the Ocean & Unite Here Local 11

The appeals by Heal the Ocean and Unite Here Local 11 both contend that the approved project is not consistent with the Coastal Act and LCP policies regarding public access and recreation (Coastal Act Sections 30001.5(c), 30210, 20211, 30212.5, 30213, 30214, 30221, 30222, 30250(c), 30252; Land Use Plan policies 2-4, 2-8, 7-1, 7-10, 7-28, 7-29, 7-30; Coastal Zoning Ordinance Sections 35-81.1, 35-81.4, 35-103, 35-105, 35-106, 35-208.1, 35-208.2; Montecito Community Plan goals and policies PRT-M-1.6, PRT-M-1.6.6, and the Visitor Serving Commercial zoning designation). Specifically, the appeals claim that the existing resort generates excessive traffic and is insufficiently parked, leading to spillover into adjacent streets and public parking, adversely impacting public access to the beach and other coastal resources.

Additionally, the appeals allege that resort staff have blocked an existing pedestrian public access easement recorded over the resort property for access to the beach, and this easement will be adversely impacted due to the intensification of traffic and parking. The appellants also argue that the project's parking will lead to public safety concerns regarding emergency vehicle access within the proposed parking lots, potential increased queuing, and delayed evacuations related to the parking's proposed valet service, stacker facilities, and double/triple stacked parking configurations; and potential queuing into adjacent streets that may impact pedestrian, cyclists, and vehicle circulation on streets already congested by the resort related parking and traffic demands. The appeals further state that the approved retail will function as a luxury boutique shopping center, generating significantly more traffic and parking. The appeals assert that this will likely induce more visitors to utilize the beach and other coastal-dependent resources, making them less available to the public, and therefore, the resort may require additional consideration of public recreational opportunities.

Additionally, the appeals assert the project is not consistent with the Coastal Act and LCP policies regarding coastal hazards (Coastal Act Section 30253; Land Use Plan policies 2-12, 2-18, 3-8, 3-11, 3-12, 3-13, 3-14; and Montecito Community Plan goals and policies FD-M-2, FD-M-2.2, FD-M-4.1). Specifically, the Heal the Ocean appeal states that the proposed development is located in areas "subject to potential flooding, mudslides, and the various impacts of climate change and sea level rise" and within a FEMA-mapped flood zone and given that sea level rise and the potential for significantly more destructive tidal surge due to global climate change cannot be accurately predicted, potential impacts have been underestimated during project approval by the County. Furthermore, the appellant contends that the project's stormwater control calculations do not account for climate change fueled storm events, increasing the probability of flooding in low-lying areas.

The appeals also assert the project is not consistent with the Coastal Act and LCP policies regarding visitor serving commercial, visual resource, and neighborhood compatibility (Coastal Act Sections 30251 30253; Land Use Plan policies 2-4, 2-17, 4-9, 4-11; Coastal Zoning Ordinance Section 35-208.1; and Montecito Community Plan policies LU-M-2.1, LUG-M-1.1, LUC-M-1.6, VIS-M-1.4). Specifically, the appeal by Heal the Ocean alleges the location of the approved two- and three-story residential buildings

and mixed-use retail and market-rate apartments on the perimeter of the resort and adjacent to residential neighborhoods will change the character of the residential neighborhood into a high-end commercial space. Furthermore, the appeal alleges the approved mixed-use retail, and residential buildings will introduce the first commercial retail structures to the neighborhood.

Appeal by Heal the Ocean

The appeal by Heal the Ocean further alleges that the proposed project is inconsistent with the Coastal Act and LCP policies regarding environmentally sensitive habitat areas (ESH) and water quality (Coastal Act Section 30231 and Land Use Plan policies 3-19, 9-14, and 9-36). Specifically, the appeal alleges “the project does not adequately mitigate potential impacts to wetlands and water quality from stormwater runoff.” Additionally, the appeal contends the HydroCAD modeling by the applicant’s consultants is flawed, and thus, it is not possible to assess accurately whether the stormwater controls will meet the resource protection requirements of the LCP.

Heal the Ocean also contends that the approved project violates the Coastal Act’s environmental justice provisions (Coastal Act Section 30013, 30107.3, 30604(h)) and the Commission’s Environmental Justice Policy because the 26-unit affordable employee housing structure is located in a flood zone, therefore subjecting future residents to increased risk of environmental harm and hazards.

Appeal by Unite Here Local 11

The appeal by Unite Here Local 11 also alleges the approved project is inconsistent with the California Environmental Quality Act (CEQA) as it relates to direct and indirect impacts on traffic (i.e., level of service (LOS), vehicle-miles traveled (VMT)), greenhouse gas (GHG) emissions, relies on an inadequate CEQA-review that misapplies the AB 1804 CEQA Exemption, and other CEQA concerns. However, the Commission does not have the authority to review the project’s CEQA determination, and any alleged CEQA defect is not a valid ground for appeal of the CDP. Lastly, the appeal contends the project is inconsistent with the adopted actions in Santa Barbara County’s Seismic Safety and Safety Element Plan (Action FIRE - 7.3.2, 7.3.3, 8.1.1) and also claims the project needs an evacuation plan for this area, given the area’s history with the 2018 Montecito mudslide and debris flow and wildfires and future sea level rise. However, the County’s Seismic Safety and Safety Element Plan is not a part of the County’s LCP and thus is not the standard of review for the subject CDP, is not relevant to this appeal, and is not valid grounds for an appeal.

Staff has reviewed the appellants’ stated concerns in the context of specific LCP policies and provisions in an effort to fully characterize the nature of the appellant’s contentions, even in those instances where specific citations to LCP policies were not included in the appeal. Therefore, the relevant LCP provisions are interpreted and analyzed as the basis of the appellant’s contentions.

C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the locally-approved project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act.

The Coastal Act requires that the Commission shall hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603 (§30625(b)(2)). Section 13115(c) of the Commission's regulations provides that the Commission may consider various factors when determining if a local action raises a significant issue, including but not limited to the following five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and, where applicable, the public access and recreation provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its local coastal program; and
5. Whether the appeal raises only local issue as opposed to those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. In this case, the Commission determines that the appeal raises no substantial issue with regards to the grounds on which the appeal has been filed, as discussed below.

1. Public Access and Recreation

The appellants assert the approved project is not consistent with the public access and recreation policies and provisions of the County's LCP and the Coastal Act. The following policies from the County of Santa Barbara's LCP and the public access policies of the Coastal Act were cited by the appellants or are relevant to the appellants' allegations:

Coastal Act Section 30001.5(c) states (in applicable part):

The legislature further finds and declares that the basic goals of the state for the coastal zone are to:

...

- (c) Maximum public access to and along the coastal and maximize public recreational opportunities in the coastal zone consistent with sounds resources conservation principles and constitutionally protected rights of private property owners.

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Coastal Act Section 30210, as incorporated into the County of Santa Barbara LUP, states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211, as incorporated into the County of Santa Barbara LUP, states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212.5, as incorporated into the County of Santa Barbara LUP, states:

Wherever appropriate and feasible, public-facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30213, as incorporated into the County of Santa Barbara LUP, states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. Neither the commission nor any regional commission shall either (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low and moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Coastal Act Section 30214, as incorporated into the County of Santa Barbara LUP, states:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
 - a. Topographic and geologic site characteristics.
 - b. The capacity of the site to sustain use and at what level of intensity.

- c. The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
 - d. The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
- (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balance the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution.
- (c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organization which would minimize management costs and encourage the use of volunteer programs.

Coastal Act Section 30252, as incorporated into the County of Santa Barbara LUP, states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

County of Santa Barbara LUP Policy 7-1 states:

The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:

- a. Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the availability of staff and funds.
- b. Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.

- c. Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

County of Santa Barbara LUP Policy 7-10, in applicable part, states:

The County shall provide increased opportunities for beach access and recreation in the Montecito planning area.

Implementing Actions:

- f. In order to alleviate existing congestion along Eucalyptus Lane, the County shall provide a small public parking area for approximately 15 cars adjacent to Humphrey Road. Access to the beach from this parking area would be via Eucalyptus Lane or Edgecliff Lane.

County of Santa Barbara Coastal Zoning Ordinance Section 35-103 states:

Section 35-103: Purpose and Intent.

The purpose of this DIVISION is to assure the provisions and maintenance of safe, adequate, well-designed off-street parking facilities in conjunction with any use or development. The intent is to reduce street congestion and traffic hazards and to promote an attractive environment through design and landscaping standards for parking areas. The standards set forth in this DIVISION shall be considered minimums, and more extensive parking provisions may be required by the Planning Commission as a condition of project approval.

County of Santa Barbara Coastal Zoning Ordinance Section 35-105 states:

Section 35-105: Maintenance of Parking Spaces.

No parking area or parking space provided for the purpose of complying with the provisions of this DIVISION shall thereafter be eliminated, reduced, or converted in any manner unless equivalent facilities approved by the County are provided elsewhere in conformity with this DIVISION. The permit for the use for which the parking was provided shall immediately become void upon the failure to observe the requirements of this section.

County of Santa Barbara Coastal Zoning Ordinance Section 35-106 states:

Section 35-106: Recalculation of Parking Spaces Upon Change of Use.

Upon the change of any use, the number of parking spaces to be provided shall be calculated according to the requirements of this DIVISION for the new use. Any previous parking modifications granted by the Planning Commission, Zoning Administrator, or the Director shall be null and void.

County of Santa Barbara Coastal Zoning Ordinance Section 35-107, in applicable part, states:

Section 35-107: Required Number of Spaces: General.

...

6. Where the standards result in a fraction, the next larger whole number shall be the number of spaces required. In order to encourage efficient use of commercial parking spaces and good design practices, the total parking requirement for mixed uses or conjunctive uses shall be based on the number of spaces adequate to meet the various needs of the individual uses operating during the Peak Parking Period.
7. Modifications to the parking requirements may be granted, pursuant to Section 35-142 (Accessory Dwelling Units), Section 35-144C.4 (Density Bonus for Affordable Housing Projects), Section 35-172.12 (Conditional Use Permits), Section 53-173 (Variances), Section 35-174.8 (Development Plans), or Section 35-179 (Modifications).

County of Santa Barbara Coastal Zoning Ordinance Section 35-208.1 states:

Section 35-208.1: Additional Findings Required for Approval of Development Plans.

1. Improvements to resort visitor serving hotels have been designed to be consistent with the existing historic "Cottage Type Hotel" tradition from the early days of Montecito.
2. The facility is compatible in mass, bulk, scale, and design with the residential character of the surrounding neighborhoods.

County of Santa Barbara Coastal Zoning Ordinance Section 35-208.2 states:

Section 35-208.2: Additional Requirements.

1. Two thirds of any new or reconstructed buildings which are guest rooms shall be limited to 16 feet in height, except as provided for pursuant to Division 10, Nonconforming Structures and Uses and Section 35-214, "Restoration of Damaged Nonconforming Buildings and Structures" of Division 16.
2. Parking areas shall be broken into small groupings of parking spaces and shall be fully landscaped.
3. Cottage units shall be separated by landscaping to minimize the bulk and scale of development.
4. New or reconstructed cottages shall be limited to six units (keys) per cottage, except as provided for pursuant to Division 10, Nonconforming Structures and Uses.

Montecito Community Plan Policy PRT-M-1.6 states:

New development shall not adversely impact existing recreational facilities and uses.

Montecito Community Plan Action PRT-M-1.6.6 states:

In approving new development, the County shall make the finding that the development will not adversely impact recreational facilities and uses.

A fundamental goal of the Coastal Act is to “maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone” (Coastal Act Section 30001.5, subd. (c)). To achieve this goal, both the Coastal Act and the County’s certified LCP set forth specific policies governing the provision of public access and recreational opportunities, and development along the coast. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); and provides that the location and amount of new development should maintain and enhance public access to the coast through various means (Section 30252).

Additionally, the County’s Coastal Zoning Ordinance (CZO) contains standards and provisions that require development to provide for safe and adequate off-street parking facilities to help reduce street congestion and traffic hazards. CZO Section 35-105 requires the maintenance of parking spaces by requiring that no required parking space shall be eliminated, reduced, or converted unless equivalent spaces approved by the County are provided elsewhere in conformity with the Division 6 Parking Regulations of the County’s CZO. Further, CZO Section 35-106 states that upon the change of any use, the number of parking spaces to be provided shall be calculated according to the requirements of CZO parking regulations for the new use and that any previous parking modifications granted shall be null and void. Lastly, the CZO provides minimum off-street parking requirements that must be provided for residential and retail uses.

The availability of adequate parking to serve development promotes public access. When private development fails to provide adequate vehicle parking on site, parking spaces that would otherwise be available to general coastal visitors can end up serving the private development instead, displacing coastal visitors’ opportunity to park near coastal amenities. This is generally why new development must provide adequate onsite parking.

CZO/State Density Bonus Law Parking Standards

To protect the availability of public on-street parking, the County’s CZO and the State Density Bonus Law (SDBL) contain provisions relating to off-street parking requirements for new development (CZO Section 35-110) and allowable parking waivers for affordable housing projects (CZO Section 35-144C.4.3).

CZO Section 35-110 (Required Number of Spaces: Commercial), in applicable part, requires:

2. Restaurants, café, taverns, etc.: One space per 300 sq. ft. of space devoted to patrons and one space per two employees.
- ...
4. Retail business and general commercial: One space per 500 sq. ft. of gross floor area.

CZO Section 35-144C.4.3 state:

Additional parking incentives or concessions. An applicant may request alternate vehicular parking ratios in addition to other incentives or concessions provided in this Section.

Pursuant to the State Density Bonus Law, upon the request of the developer, the County shall not require a vehicular parking ratio that exceeds the following ratios:

- (A) Zero to one bedroom: one onsite parking space.
- (B) Two to three bedrooms: one and one-half onsite parking space.
- (C) Four and more bedrooms: two and one-half parking spaces.

The County's CZO further allows for modifications to parking requirements and encourages efficient use of commercial parking spaces by allowing for the total of parking requirements for mixed uses or conjunctive use to be based on the number of spaces adequate to meet the various needs of the individual uses operating during the peak parking period. Specifically, CZO Section 35-107, in applicable part, states:

Section 35-107: Required Number of Spaces: General.

...

6. Where the standards result in a fraction, the next larger whole number shall be the number of spaces required. In order to encourage efficient use of commercial parking spaces and good design practices, the total parking requirement for mixed uses or conjunctive uses shall be based on the number of spaces adequate to meet the various needs of the individual uses operating during the Peak Parking Period.
7. Modifications to the parking requirements may be granted, pursuant to Section 35-142 (Accessory Dwelling Units), Section 35-144C.4 (Density Bonus for Affordable Housing Projects), Section 35-172.12 (Conditional Use Permits), Section 53-173 (Variances), Section 35-174.8 (Development Plans), or Section 35-179 (Modifications).

Impacts to Coastal Access Parking

The main contention raised in the appeals and in public correspondence received argues that the current Resort generates excessive traffic and does not provide sufficient parking, leading to spillover into adjacent streets and public parking, and the

approved project to add residential and retail/commercial development at the Resort is expected to further increase parking demand, therefore resulting in impacts to surrounding public parking, negatively affecting public access to the beach and other coastal resources.

The County approved project consists of a mixed-use development comprised of 26 affordable housing employee units, 8 market-rate housing units, and 17,500 sq. ft. of commercial spaces located on the existing northwest and northeast parking lots of the Miramar Resort. The Resort is currently developed with 435 onsite parking spaces, which serve the 154 hotel guest rooms, resort shops, four (4) affordable employee housing units, restaurant/bar, banquet facility, and spa facility. The approved project will increase the amount of parking by 44 parking spaces, such that the total Resort onsite parking supply will be 480 parking spaces. The parking spaces removed because of the development of the existing northwest and northeast parking lots will be replaced with a new subterranean parking lot at the northwest site, and a reconfigured parking area with 350 spaces will be located at the northeast site (Exhibit 3).

The Resort is located between the sea and the first public road (South Jameson Lane) and is adjacent to Miramar Beach, a south-facing cove with a narrow sandy beach. Miramar Beach is a popular beach that supports swimming and other recreational activities. Miramar Beach is accessed from the public stairway at the end of Eucalyptus Lane as well as through the Miramar Resort through three (3) public pedestrian access easements that run across the Resort. Public members may park at the public parking lot at the end of Eucalyptus Lane, along Eucalyptus Lane and Miramar Avenue, and in front of the Miramar Resort along South Jameson Lane.

Existing Resort Parking Conditions

As stated, the Resort is currently developed with 435 onsite parking spaces. In approving the CDP (14CDP-00000-00086) authorizing the Resort, the County granted a modification to the parking requirements to reduce the number of parking spaces to be provided (614 required and 435 provided). The County approved the parking modifications and found the proposed 435 spaces would be adequate to serve peak demands at the site based on a "Shared Parking Analysis" prepared by Associated Transportation Engineers (ATE), dated July 31, 2014, which concluded that the maximum peak demand of the resort was 430 spaces. In addition to the 435 parking spaces provided onsite for the Resort, the Resort's CDP approval also included the construction of 87 public parking spaces, which are located partially on the Resort site along South Jameson Lane, Eucalyptus Lane, and Miramar Avenue and provide for beach parking to the nearby Miramar Beach. These 87 public parking spaces were provided to offset the loss of public parking spaces from the development of the Resort. Additionally, the County conditioned the CDP to require several measures and protocols to ensure resort guests and employees do not utilize the nearby public parking. These measures included the development and implementation of a parking plan, a designated traffic coordinator, notices to inform guests of parking procedures and locations, parking signage, a parking decal program, annual compliance reports listing the total number of parking spaces used during all events (beach event, conferences,

special events, etc.), and provisions for modifications to the parking plan if the parking plan is determined inadequate to park vehicles attributed to hotel activities effectively. The Resort CDP also required the preparation and implementation of a Transportation Demand Management Program (TDM) to reduce vehicle demand and peak hour trips associated with the Resort.

Project Required Parking

According to the County’s CZO and the State Density Bonus Law, the affordable housing and mixed-use project requires 83 parking spaces, as illustrated in Figure 1 below. However, the County can grant a parking modification to this requirement under CZO Section 35-107(7).

Figure 1: CZO/SDBL Required Parking			
Land Use	Size	CZO/SDBL Requirement	Spaces Required
Apartments – Market Rate	1 one-bedroom	1 space/unit	1 space
	4 two-bedroom	1.5 spaces/unit	6 spaces
	3 three-bedroom	1.5 spaces/unit	5 spaces
Apartments – Employee Affordable	20 studio / one-bedroom	1 space/unit	20 spaces
	6 two-bedroom	1.5 spaces/unit	9 spaces
Resort Café	2,500 sq. ft.	1 space/300 sq. ft. of space devoted to patrons	9 spaces
	5 employees	1 space/2 employees	3 spaces
Resort Shops	15,000 sq. ft.	1 space/500 sq. ft.	30 spaces
Total			83 spaces

In this case, the County approved a parking modification to reduce the required off-street parking spaces from 83 to 44. As a result, the total parking supply on the Resort after buildout will be 480 parking spaces and will be distributed between a subterranean parking garage under Building A and Building B in the northwest portion of the site, and 350 parking spaces will be within a reconfigured parking area at the northeast portion of the site. The County based its findings for approving the parking modification on the conclusions of the “Parking Analysis for the Miramar Beach Resort and Bungalows Affordable Employee Housing, Market Rate Housing and Resort Visitor Serving Commercial Project” prepared by Associated Transportation Engineers (“ATE”), dated June 25, 2024. This parking analysis developed a shared parking model to determine the peak parking demands for the existing resort development and the new proposed employee housing, market-rate housing, and resort-visitor serving retail facilities during periods when the hotel, restaurants, and beach club would be busiest. The shared parking model recognized that a single space may serve several different uses at different times during the day and also accounts for the fact that a portion of the patrons at the restaurants, banquet facility, and resort shops will be guests at the hotel and thus would not generate additional parking demands. The peak parking demand was estimated to be 462 spaces.

CZO Section 35-107(6) encourages the efficient use of commercial parking spaces and good design practices, and allows for the total parking requirement for mixed uses or conjunctive uses to be based on the number of spaces adequate to meet the various needs of the individual uses operating during the Peak Parking Period.

In response to various public comments regarding parking and the reliability of the parking demand forecast prepared for the project in the ATE Parking Analysis during the County's local process, ATE also conducted parking utilization surveys at the existing Resort and the adjacent parking areas on South Jameson Lane, Eucalyptus Lane, and Miramar Avenue serving Miramar Beach. The purpose of the parking count was to demonstrate that the existing parking supply at the Resort is adequate. This parking count was conducted on Friday, October 18, 2024, and Saturday, October 19, 2024. Weather conditions were sunny and warm on the survey days, and there was a 230-person wedding held at the resort on the Saturday survey day. The results of the parking count on the Resort showed the highest demand for parking on the Friday survey day occurred at 6:00 PM when 307 of the Resort's 435 parking spaces were occupied (i.e., 71% occupancy). On the Saturday survey day, the highest demand for parking occurred at 3:00 PM, when 328 spaces were occupied (i.e., 75% occupancy). As for the off-site public parking areas, the parking count showed peak utilization on the Friday survey day, occurring at 6:00 PM, when 61 of the available 87 spaces were occupied (i.e., 70% occupancy). On the Saturday survey day, the peak occurred at 6:00 PM, when 70 of the 87 spaces were occupied (i.e., 80% occupancy).

The methodology and assumptions of the parking model utilized in the ATE Parking Analysis were also peer-reviewed by consulting firm, Linscott, Law & Greenspan, Engineers ("LLG"). LLG concluded that the ATE parking model provided a highly conservative forecast of parking demand expected to be generated by the Resort upon the buildout of the proposed project. LLG further concurred with the conclusion that based on the ATE parking model, the proposed parking supply at the Resort of 480-spaces will adequately accommodate the forecast peak parking demand forecasts for both the Resort and upon the buildout of the proposed project. Lastly, LLG concluded that given that the proposed project's onsite parking supply would be able to accommodate the peak demand forecast, development of the project would not result in spillover parking onto public spaces or otherwise impact public access to the beach and other local coastal resources.

Moreover, the County reviewed and concurred with the project's submitted traffic and parking studies, which showed that the project would not significantly impact parking and traffic in the area. The County Department of Public Works also reviewed the submitted studies and agreed with the study's conclusions.

Additionally, the County conditioned the project CDP to require several measures and protocols to ensure that resort guests and employees do not utilize the nearby public parking, similar to those measures approved in the Resort's CDP. These conditions included the development and implementation of a parking plan, a designated traffic coordinator, notices to inform guests of parking procedures and locations, parking signage, a parking decal program, annual compliance reports listing the total number of

parking spaces used during all events (beach event, conferences, special events, etc.), and provisions for modifications to the parking plan if the parking plan is determined inadequate to park vehicles attributed to hotel activities effectively. The approved CDP also required preparing and implementing a Transportation Demand Management Program (TDM) to reduce vehicle demand and peak hour trips associated with the project. Additionally, the approved 480 parking spaces will be distributed between the northwest and northeast portions of the site, consistent with CZO Section 35-208.2.2, which requires parking areas on lands designated CV Resort/Visitor Serving Commercial in Montecito to be broken into small groupings of parking spaces.

Other Parking/Traffic Appeal Contentions

Furthermore, the appeals list the following concerns with regards to traffic and parking:

- a. Personal observations from local residents and community members demonstrate that the existing site is under-parked causing parking spillover into the adjacent streets resulting in the loss of public parking spots. The resort's conversion of some parking spaces that further reduced parking spaces onsite (e.g., Tesla charging stations), and the need to utilize off-street employee parking at the adjacent church parking lot and other location known as the "QAD." The resort's existing Parking Plan and TDM (Transportation Demand Management Program) program are ineffective and have not been adequately enforced in a timely manner.

Response: The County states that the existing Parking Plan and TDM program have been effective, based on the five years of reporting. Furthermore, in compliance with the conditions of approval for the Resort, the applicant has submitted annual parking compliance reports, which require them to list the total number of parking spaces used during events. These reports are required to be submitted to the County's Planning and Development and be reported to the Montecito Planning Commission annually until the Commission determines that annual reporting is no longer necessary. The current Resort has been in operation since 2019, and according to the County, the applicant has operated in substantial compliance with all permit conditions. The applicant is in good standing with the Department concerning permit compliance. Additionally, the County states no current violations exist on the property. Furthermore, the approved project was conditioned to require the designated traffic coordinator (or designee) to inspect the public parking spaces on Eucalyptus Lane, South Jameson Lane, Miramar Avenue, and Humphrey Lane hourly between the hours of 8 AM and 5 PM on weekend days throughout the year, during the week in the summer months (June 15 - September 15) and on all special event days. A daily log will be maintained to document that the monitoring has occurred and will be made available to County staff as part of the annual reporting requirements.

The appeals also allege the Resort lost parking spaces by adding Tesla charging stations and claims the Resort utilizes off-site employee parking at the adjacent church parking lot and other location known as the "QAD." However, these allegations are not supported by specific evidence or explanation. In this case, the County approved the addition of the Tesla charging stations at the Resort. According to the applicant, the resort does not use offsite parking to meet parking demands. Instead, such offsite

parking is utilized from time to time for special events to improve operational efficiency and reduce valet wait times or occasionally when a special event requires the use of a portion of the parking area.

- b. Public safety concerns regarding emergency vehicle access within proposed parking lots (i.e., proposed underground, surface, platform facilities); potential increased queuing and delayed evacuations related to the parking's proposed valet service, stacker facilities, and double/triple stacked parking configuration; and potential queuing into adjacent local roads that may adversely impact pedestrian, bike, and vehicle circulation on existing small roads already congested by Resort-related parking/traffic demands.

Response: The appellant's contentions are not supported by specific evidence or explanation. According to the County, the Montecito Fire Protection District has reviewed emergency vehicle access, and no concerns were raised with the approved parking lots or emergency access to the site. Furthermore, the County found that vehicles will not queue on the adjacent road because on-site parking for the resort will be 100% valet, and the valet drop-off is located over 220 feet from South Jameson Lane. Additionally, if there is a line of vehicles in the driveway, there are spaces in the roundabout at the Resort's entrance where the valets can temporarily park vehicles. The County has not had any compliance or evidence provided of queuing since the resort became operational in 2019.

- c. Existing spillover effects adversely impact public parking spaces (i.e., 87 public parking spaces) that provide public access to the beach and other coastal resources. Resort guests regularly utilize public parking stalls, and the resort has no mechanism for ensuring visitors to existing and new commercial amenities will utilize the parking options provided (e.g., costly valet services).

Response: As detailed in the parking discussion above, as set forth in the provided ATE Parking Analysis, and as confirmed by the peer review by LLG, the parking surveys demonstrated that the Resort has sufficient parking and that there is no spillover onto public street parking providing public access to the beach. Furthermore, the approved project is conditioned to require the designated traffic coordinator to inspect the public parking spaces on Eucalyptus Lane, South Jameson Lane, Miramar Avenue, and Humphrey Lane hourly between the hours of 8 AM and 5 PM on weekend days throughout the year, during the week in the summer months (June 15 - September 15) and on all special event days.

- d. Reasonable assumptions predicated upon site/applicant-specific facts and other evidence demonstrating the existing and proposed retail will function as a luxury boutique shopping center generating significantly more traffic (and associated emissions) and parking demand than what was assumed.

Response: The appellant's contentions are not supported by specific evidence or explanation to support their claim the approved retail will function as a luxury shopping center that will generate more traffic and parking demand than assumed. According to the County, the approved resort shops will be local/resort serving and will not generate traffic amounts similar to a shopping center. The resort shops will be similar in nature to

the existing commercial development on site and will primarily serve the guests of the resort. The traffic study assumes 50% of the people visiting the resort shops are guests staying at the resort and on-site residents. It is anticipated that an even greater percentage of the customers will be resort guests due to the high-end luxury nature of the shops.

- e. Residents highlight that after the County Planning Commission hearing held on October 9, 2024, the resort stationed approximately six new parking monitors that, while effective at reducing spillover impacts, are generally not present at the site to enforce parking management solutions.

Response: The appellant's contentions do not provide specific evidence or explanation how the parking monitors would affect the accuracy of the parking surveys. In this case, the ATE Parking Analysis concluded the project will not have a significant impact to parking in the area.

- f. The resort's recent October parking survey failed to consider seasonal variability (particularly during peak summer season), consider peak periods when big events coincide with other significant operations demanding significant parking, or specify periods when off-site employee parking locations are utilized or how the survey may be likely skewed by the ad hoc parking monitors recently implemented.

Response: The parking surveys were conducted during a time when the Resort's occupancy ranged from 86% to 88%, during sunny/warm weather conditions, and during a 230-person wedding event held at the Resort, with 30 attendees staying at the Resort. Therefore, the parking survey was collected during a reasonable time considering the occupancy level above 85% and a 230-person wedding event.

- g. The Project fails to include a vehicle miles traveled (VMT) impact analysis due to the improper assumption that retail is merely local/hotel-serving and the refusal to consider the potential cumulative impacts from successive developments at the resort. The traffic study fails to accurately account for traffic associated with new commercial development open to the public.

Response: The project was reviewed by the County's Public Works Transportation Department, which provided a conditional letter of approval. The applicant also provided a Traffic and VMT (Vehicle Mile Traveled) Analysis, which evaluated the potential trip generation of the proposed project. The traffic analysis was also peer-reviewed by consulting firm, Linscott, Law & Greenspan, Engineers ("LLG"), who concurred with the trip generation rate used for the traffic analysis.

The County found that the project would not result in any significant VMT or other transportation impacts. According to the County's staff report, the proposed resort shops will be local/resort serving and will not generate traffic amounts similar to a shopping center. The resort shops will be similar in nature to the existing commercial development on site and will primarily serve the guests of the resort. The traffic study assumes 50% of the people visiting the resort shops are guests staying at the resort and on-site residents. It is anticipated that an even greater percentage of the customers

will be resort guests due to the high-end luxury nature of the shops. Chapter 18, Thresholds of Significance for Transportation Impacts, of the Environmental Thresholds and Guidelines Manual contains VMT screening criteria and thresholds of significance for the unincorporated areas of Santa Barbara County. The County presumes that projects meeting one or more of the screening criteria, absent substantial evidence to the contrary, would have an insignificant VMT impact and, therefore, would not require further VMT analysis. The traffic study included a VMT impact analysis based on the adopted screening criteria. The VMT screening threshold for the commercial component of the project is 50,000 square feet for locally serving retail uses. The project consists of 17,500 square feet of commercial development and is therefore significantly below this threshold. The retail component of the project is anticipated to reduce VMT in the County by providing new dining and retail opportunities for resort guests and on-site residents, as well as existing residents and employees in the surrounding areas of Montecito.

Based on the information in the record and the project specific parking analysis that allows for a reduction in parking requirements as specified in the LCP, the County found that the project will not adversely impact public access to nearby beaches. The County's findings are supported by substantial evidence and, as conditioned, the approved CDP is consistent with Coastal Act and LCP policies, which require maximum public access to the coast. Thus, the appellants' contentions regarding public access do not raise a substantial issue.

Public Access Easements

The appeals allege that resort staff have blocked an existing pedestrian public access easement recorded over the resort property for access to the beach, and this easement will be adversely impacted due to the intensification of traffic and parking. However, the appellants made a general assertion about the resort's blockage of the existing pedestrian public access easements, without citing a specific example or evidence of frequent or extended closures.

LUP Policy 7-1 states that the County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. Public access to beaches within the vicinity of the Miramar Hotel is provided through several vertical and lateral access points. An existing 20-foot lateral access easement is recorded over the hotel's full beach frontage (dated July 21, 1975, and recorded on October 6, 1975) at least 20 feet from the water line for public access that remains in effect at all times (except for when the water has reached the edge of the boardwalk). Additionally, three pedestrian easements are recorded over the Miramar property for access to the beach, which was required pursuant to the Resort CDP. The approved project includes a slight modification to the location of the easement in the eastern parking lot; however the revised location will continue to provide the same public access to the beach and is generally in the same location. Additionally, the project is conditioned to require the applicant to provide signage marking public routes through the Resort to the beach. Further, the CDP is conditioned to require the Resort's visitor-serving amenities to be non-exclusive and fully open to the public. Any blockage

of the easements violates the project conditions, which can be reported to the County's Enforcement Compliance staff.

For these reasons, the Commission concurs with the County's findings that the project would preserve the existing lateral and vertical public access easements across the Resort consistent with the County's LCP.

Public Recreational Opportunities Appeal Contentions

The appeals further state that the "addition of more luxury shopping at the Resort may require additional consideration of public recreational opportunities that are to be encouraged under Coastal Act Section 30213. Specifically, Section 30213 states that recreational facilities shall be protected, encouraged, and where feasible, provided. The Montecito Community Plan also contains provisions requiring the County to make findings that new development will not adversely impact existing recreational facilities and uses (PRT-M-1.6 and PRT-M-1.6.6). However, the appellant makes a general assertion that "adding more luxury retail services will likely induce more visitors to utilize the beach and other coastal-dependent resources, therefore making them less available to the public."

The project includes 15,000 square feet of resort shops that will be resort/visitor-serving light commercial uses similar in nature to the existing resort shops on site, such as resort-oriented clothing shops, jewelry stores, and wellness/beauty shops. The ATE traffic report concluded that 50% of the Resort's shop customers will be guests staying at the Resort. The appellant did not provide any evidence that the approved resort shops would generate additional visitors to the beach, thereby requiring additional public recreational facilities to be provided by the project. On the contrary, the approved project will not remove any lower cost visitor or recreational opportunities, consistent with Coastal Act Section 30213. For these reasons, the Commission finds that the project does not raise issues with Coastal Act Section 30213.

For these reasons, the County's action on the subject CDP included ample findings and evidence determining that the approved project is consistent with the relevant public access and recreation policies and provisions of the County's LCP and Coastal Act. As such, the Commission finds that the appeal contentions regarding public access and recreation do not raise a substantial issue.

2. Coastal Hazards and Environmental Justice

The appellants contend that the approved project is inconsistent with the following policies and provisions regarding coastal hazards and that the project violates the Coastal Act's environmental justice provisions. The following policies from the County of Santa Barbara's LCP and Coastal Act were cited by the appellants or are relevant to the appellants' allegations.

Coastal Act Section 30253, as incorporated into the County of Santa Barbara LUP, states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

County of Santa Barbara LUP Policy 2-12 states:

The densities specified in the land use plan are maximums and shall be reduced if it is determined that such reduction is warranted by conditions specifically applicable to a site, such as topography, geologic or flood hazards, habitat areas, or steep slopes. However, density may be increased for affordable housing projects provided such projects are found consistent with all applicable policies and provisions of the Local Coastal Program.

County of Santa Barbara LUP Policy 3-8 states:

Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to, threats from, and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, or other geologic hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report shall be required. Mitigation measures shall be required where necessary.

County of Santa Barbara LUP Policy 3-11 states:

All development, including construction, excavation, and grading, except for flood control projects and non-structural agricultural uses, shall be prohibited in the floodway unless off-setting improvements in accordance with HUD regulations are provided. If the proposed development falls within the floodway fringe, development may be permitted, provided creek setback requirements are met and finish floor elevations are above the projected 100-year flood elevation, as specified in the Flood Plain Management Ordinance.

County of Santa Barbara LUP Policy 3-12 states:

Permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, i.e., dams, stream channelizations, etc.

County of Santa Barbara LUP Policy 3-13 states:

Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

County of Santa Barbara LUP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Montecito Community Plan Policy FD-M-2.2 states:

New development shall be located in a manner that minimizes the need for flood control measures.

Coastal Hazards

Section 30253 of the Coastal Act, which is incorporated in the County's LCP, mandates that new development minimize risks to life and property in areas of high geologic and flood hazard, and not create or contribute significantly to erosion. LUP Policy 3-11, LUP Policy 3-12, and Montecito Community Plan Policy FD-M-2.2 state that permitted development shall not cause or contribute to flood hazards or lead to the expenditure of public funds for flood control works. LUP Policy 3-14 further provides that all development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions, and areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space. Lastly, LUP Policy 2-12 requires reductions in density where site conditions warrant such as geologic or flood hazards; however, density may be increased for affordable housing projects provided such projects are found consistent with all applicable policies and provisions of the LCP.

The County's LCP also includes a Flood Hazard Area Overlay District (CZO Section 35-95. FA – Flood Hazard Area Overlay District). This overlay zone identifies the areas within the 100-year flood plain as shown on the current Federal Emergency Management Agency (FEMA) maps on file with the County's Public Works Flood Control and Water Agency. CZO Section 35-95.3 requires proposed development within the Flood Hazard Area Overlay District to be found consistent with the County Code Chapter 15A (Floodplain Management) and LUP Policy 3-11 requires development

within the floodway fringe to meet creek setback requirements and finished floor elevations are above the projected 100-year flood elevations, as specified in the Flood Plain Management Ordinance.

The appellants allege that the approved development is located in areas “subject to potential flooding, mudslides, and the various impacts of climate change and sea level rise” and within a FEMA-mapped flood zone and given that sea level rise and the potential for significantly more destructive tidal surge due to global climate change cannot be accurately predicted, potential impacts have been underestimated during project approval by the County. Furthermore, the appellant contends that the project’s stormwater control calculations do not account for climate change fueled storm events, increasing the probability of flooding in low lying areas.

In this case, a portion of the project site is located within the Flood Hazard Area Overlay District and requires compliance with County Code Chapter 15A. Specifically, Building C containing the three-story, 26-unit affordable employee housing units approved on the existing northeast parking lot is located outside the floodway, but within a designated FEMA Flood Zone with a 1% Annual Chance Flood Hazard (Zone AE) under the currently applicable FEMA Flood Maps, which are set to expire and will be replaced with a preliminary FEMA map estimated to be adopted by FEMA in 2026. Under the pending preliminary FEMA Flood Maps, the flood hazard within the area of the affordable housing is depicted as a lower risk as compared to the flood hazard depicted on the currently applicable FEMA Flood Maps. Specifically, the Building C containing the affordable housing units will be located within a 0.2% Annual Chance Flood Hazard under the preliminary FEMA map instead of the 1% Annual Chance Flood Hazard. In any case, the approved project has been reviewed for compliance with the currently required flood standards and conceptually approved by the County Flood Control District.

The approved finished floor elevation of Building A and Building B is +40 feet (NAVD 88), Building C will be +28 feet (NAVD 88) and the parking improvements would have a lowest elevation of about +18 feet (NAVD 88). The finished floor elevations are based upon the County’s most current 2024 Recovery Mapping for the project site and include the 2 feet of freeboard required, consistent with LUP Policy 3-11. Additionally, the bottom of the subterranean garage will be located above the groundwater level, and the garage will be water- and flood-proofed. For these reasons, the County found the project to be consistent with the County Code Chapter 15A (Floodplain Management), LUP Policy 3-11, and CZO Section 35-95.3.

Further, the Heal the Ocean appeal alleges that the affordable housing units are subject to inundation by the 100-year flood at base flood elevation (“BFE”) +23 to +25 ft. and given the elevations in this area range from +18 to +26 ft., a portion of the area is at risk of substantial flooding even without projected sea level rise. The appeal further refers to concerns discussed in an attached comment letter prepared by Integral Consulting, Inc., and dated December 6, 2024 (“IC Report”). In particular, the IC Report asserts that the flooding estimates contained in the Geotechnical Report prepared by Geotechnical Professionals, Inc. for the project “do not account for projected SLR, which is on the

order of 4.5 feet for this area,” and that “accounting for SLR, the Northeast Lot, if flooded, could be up to 11.5 feet underwater.”

The appellants incorrectly assert that the flooding estimates contained in the Geotechnical Report prepared by Geotechnical Professionals, Inc. do not account for projected sea level rise, which is on the order of 4.5 feet in the year 2100 (Intermediate-High Sea Level Scenario for Santa Barbara, California Sea Level Rise Guidance (OPC 2024)) for this area. However, in this case, the closest proposed habitable development, Building C, is located approximately 425 feet from the shoreline. There are several structures in between the approved development and the coast, including single-family residences, the Miramar Beach Bar, and the Union Pacific railroad tracks. The prepared Sea Level Rise Flood Hazard Report by GeoSoils, dated June 11, 2024, concluded that because Building C is approximately 425 feet from the Pacific Ocean, the 100-year storm (wave flood event) with the design SLR of 4.5 feet would not impact the site. Furthermore, the Coastal Storm Modeling System (CoSMoS⁴) output indicates that Building C is not vulnerable to flooding with even as much as 4.9 feet of SLR. The GeoSoils SLR Report concluded that the project would be safe from coastal hazards, including flooding and erosion, during its design life.

The IC Report further alleges that the affordable employee housing units (Building C) would be vulnerable to mudslides and states that the “Montecito Fire District included the eastern portion of the Northeast Lot in the Storm Impact Consideration Map.” The Resort did not experience flooding or mudflow during the severe 2018 Montecito Mudslide/Debris Flow. The appellants assert Building C would be vulnerable to mudslides based on a USGS Map⁵. However, no data on the map indicates a significant risk to the approved Building C area of the project site. Additionally, the appellant asserts an eastern portion of the northeast parking lot is identified under the Montecito Fire Department Storm Impact Consideration Map⁶. However, the Storm Impact Consideration Map, updated in December 2021, expressly states that the map’s purpose is to provide notice to properties within such areas that they should have plans to evacuate in the event of a severe rainstorm. The map is not intended to assess potential mudslide risks on individual properties. Furthermore, only a small portion of the Northeast lot is within the map’s depicted “Storm Impact Zone,” and the approved footprint of Building C is located outside of this zone.

For the reasons described above, the County’s action included ample findings and evidence determining that the approved project would minimize risks from coastal hazards in compliance with the coastal hazard policies of the LCP. As such, the Commission finds that the appeal contentions regarding conformance with the coastal hazards provisions and policies of the LCP do not raise a substantial issue.

Environmental Justice

⁴ <https://ourcoastourfuture.org>.

⁵ <https://www.arcgis.com/apps/mapviewer/index.html?webmap=72fa724b46814e8d8838f700b340425e>

⁶ <https://www.arcgis.com/apps/webappviewer/index.html?id=745f2e4e8819408fa8de71a02332d5d8>

The Heal the Ocean appeal also asserts that siting the affordable employee housing units (“Building C”) within an area designated within a flood hazard area and adjacent to a freeway raises social justice implications that require additional attention on appeal in light of the Coastal Commission’s Environmental Justice Policy. The appeal further states that providing affordable workforce housing should not mean creating new marginalized communities by virtue of subjecting them to increased risk of environmental harm, and affordable housing should be located in an area of the property less susceptible to identified hazards. However, the appellant made a general assertion about the project raising environmental justice implications, and the appellant did not provide any evidence for this claim.

Applicable Coastal Act Provisions

The Coastal Act explicitly identifies the need to ensure equity and environmental justice and allows the Commission to consider coastal resource issues and impacts through that lens in appeal cases, like this, even if the LCP does not explicitly address environmental justice, as is the case here. Following are the applicable Coastal Act policies.

Coastal Act Section 30013 states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Coastal Act Section 30107.3 states:

- (a) “Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, and incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- (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 .
 - (3) Government 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

decisions 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.

Coastal Act Section 30604(h) states:

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

To implement its Coastal Act environmental justice authority, the Commission adopted an Environmental Justice Policy (“EJ Policy”) to guide and inform its decisions and procedures in a manner that is consistent with the provisions in, and furthers the goals of, Chapter 3 of the Coastal Act and certified LCPs. The EJ Policy further articulates environmental justice concepts, including stating: The term “environmental justice” is currently understood to include both substantive and procedural rights, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Thus, the Commission’s EJ Policy underscores the importance of both substance (i.e., evaluating whether projects do or do not disproportionately distribute environmental benefits and burdens) and process (i.e., ensuring that those potentially affected by proposed development have an equitable opportunity to participate in a transparent public process). The EJ Policy also details how the Commission will work to ensure equitable distribution of benefits and burdens, including access to the coast, and safeguard environmental justice communities from disproportionate impacts of climate change, water contamination, and other environmental issues.

Recognizing that the elimination of affordable residential neighborhoods has resulted in many environmental justice communities, that is to say, low-income communities, communities of color, and other historically marginalized communities living farther from the coast, the EJ Policy calls for the Commission to increase efforts to encourage affordable housing in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act.

As previously mentioned, the approved project includes 26 affordable employee housing units for people earning a range of incomes. Living closer to work helps reduce commute times, costs, and greenhouse gas emissions, and improves the quality of life for employees who are vital to the success of the resort and associated businesses. The approved project site is situated on an infilled lot currently developed with an existing Resort located along the coast of Montecito in the unincorporated area of Santa Barbara County. Much of the housing surrounding the proposed project consists of large two-story single-family residences, and surrounding census tracts have a low

overall composite CalEnviroScreen⁷ score and low air pollution burden. The surrounding area is not considered low-income, as defined by AB 1550, or twice the federal poverty level⁸ and shows a predominantly white population⁹. Despite the existing surrounding community not being classified as an environmental justice community, the potential impacts on future low-income residents can still be considered.

However, based upon the above coastal hazard analysis discussion, the approved project, although located within a FEMA flood hazard zone, has been designed to ensure the safety of its occupants and complies with all applicable County Flood Control District and with County Code Chapter 15A (Floodplain Management). The approved affordable housing employee units will help address the pressing need for affordable housing in the coastal zone, particularly supporting low-income workers, which also supports the provisions of equitable access consistent with the Commission's adopted Environmental Justice Policy. For these reasons, the Commission finds that the project does not raise environmental justice issues.

3. Environmentally Sensitive Habitat Area and Water Quality

The appellants contend that the approved development is in conflict with the Coastal Act and LCP policies regarding environmentally sensitive habitat areas (ESH) and water quality. The following policies from the County of Santa Barbara's LCP and Coastal Act were cited by the appellants or are relevant to the appellants' allegations.

Coastal Act Section 30107.5 and Article II Coastal Zoning Ordinance Section 35-58 states:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Section 30231, as incorporated into the County of Santa Barbara LUP, states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine

⁷ CalEnviroScreen is a tool developed by CalEPA's OEHHA that generates a single cumulative impact score by combining 21 different environmental justice indicators to compare census tracts throughout the state.

⁸ AB 1550 identifies "Low-income communities" as census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low-income by HCD's State Income Limits. A threshold of twice the federal poverty level is typically used because California's cost of living is higher than many other parts of the country.

⁹ "White population" was calculated through selection of all individuals that self-identified as White and not Hispanic/Latino in ethnicity in American Community Survey 5-Year Estimates (2015-2019) pulled from CalEnviroScreen 4.0.

organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30240, as incorporated into the certified LCP, states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

County of Santa Barbara LUP Policy 3-19 states:

Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.

County of Santa Barbara LUP Policy 9-14 states:

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat areas and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

County of Santa Barbara LUP Policy 9-36 states:

When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

County of Santa Barbara LUP Policy 9-37 states:

The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case by-case basis. The buffer shall be established based on an investigation of the

following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- 1) soil type and stability of stream corridors;
- 2) how surface water filters into the ground;
- 3) slope of the land on either side of the stream; and
- 4) location of the 100-year flood plain boundary.

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.

Montecito Community Plan Goal FD-M-2 states:

Provide adequate drainage within the Montecito foothill area to eliminate flooding and drainage problems.

Montecito Community Plan Policy FD-M-4.1 states:

Flood control activities shall protect lives and property while being conducted according to the least environmentally damaging methods.

Coastal Act Section 30107.5 and the County's certified Coastal Zoning Ordinance/ Implementation Plan (CZO/IP) define environmentally sensitive habitat (ESH) areas as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Section 30240 of the Coastal Act, which is incorporated into the LCP, also requires development adjacent to ESH areas to be sited and designed to avoid significant disruption of habitat values of those areas. LUP Policy 3-19 and Coastal Act Section 30231 require that biological productivity and the quality of coastal waters, streams, and wetlands shall be maintained. Furthermore, LUP Policies 9-14 and 9-36 require new development adjacent to or in close proximity to wetlands to be compatible with the continuance of the habitat areas and shall not result in a reduction in biological productivity or water quality of the wetland due to runoff. Lastly, LUP Policy 9-37 requires development to provide a minimum of a 50 ft. buffer from streams in urban areas.

The appeal by Heal the Ocean alleges "the project does not adequately mitigate potential impacts to wetlands and water quality from stormwater runoff." However, the appellant made a general assertion that the project did not adequately mitigate the impacts to wetland and water quality, and the appellant did not provide any evidence for this claim.

The project site is currently developed with parking lots and is located within the existing Resort site. As outlined in the Biological Assessment Report by Dudek, dated June

2024, the project site does not contain any wetlands or other riparian habitats. However, the northeast portion of the project site, which is developed with a surface parking lot, is located adjacent to the west of the mapped ESH associated with the Oak Creek stream corridor. The project site is located within an urban area, for which the LCP requires a 50-foot stream buffer between development and ESH. In this case, the approved project will be located entirely outside of the 50-foot ESH buffer of Oak Creek. The project has been designed to cumulatively have a decrease in peak flows leaving the site compared to existing conditions, resulting in fewer flows to Oak Creek. Therefore, the County correctly found that the proposed project would not result in any significant disruption of habitat values in ESH and is consistent with the ESH and ESH buffer policies and provisions of the LCP.

The project will include underground detention basins. These detention basins would capture stormwater from the site, which would capture potential pollutants, allow for infiltration of runoff, and eliminate erosion into the adjacent creek, thereby reducing peak flows and improving water quality. The project will implement all required best management practices (BMPs) to comply with the requirements of the County's Flood Control District. Additionally, the County conditioned the project to require the applicant to submit and implement a Stormwater Pollution Prevention Plan to minimize the potential for discharge of pollutants to coastal waters, streams, or wetlands from the project site during construction. As such, the County determined, and Commission staff agrees, the project would protect water quality consistent with relevant policies and provisions of the County's LCP.

Additionally, Heal the Ocean's appeal alleges that the HydroCAD modeling used by the applicant's consultants is flawed and therefore it is not possible to accurately assess whether the stormwater controls will meet the LCP's resource protection requirements. The appellant further claims that the HydroCAD modeling predicts a decrease in the overall project stormwater flows; however, redevelopment in the northeast lot would result in increased stormwater flows.

The County of Santa Barbara Flood Control requires projects to comply with both County of Santa Barbara Standard Flood Control Requirements and Stormwater Control Design Requirements. According to the County's staff report, the County of Santa Barbara Flood Control District reviewed and approved the project's Preliminary Drainage Analysis, including the HydroCAD model. The stormwater control calculations were also found to meet all of the County's Flood Control District standards. Additionally, the Preliminary Drainage Analysis addressed peak flow storm events from a 2-year to 100-year storm event, consistent with the County's Flood District requirements for new development.

With regard to the appellant's claims that HydroCAD modeling predicts a decrease in the overall project stormwater flows but redevelopment in the northeast lot would result in increased stormwater flows, staff would note that the County's design standards require analysis of the overall project results. In this case, while the flows from the northeast lot would increase, this increase would be offset by a larger decrease in flows from the northwest lot. Therefore, the overall drainage analysis for the entire approved

development shows a decrease in peak flows leaving the site and improving water quality. Additionally, the project has been designed and conditioned to retain the stormwater runoff for all events up to and including a 95th percentile rain event and to obtain approvals from the California Regional Water Quality Control Board and the County's Public Works Water Resources Division. Therefore, the County correctly found that the project, as conditioned would not have any significant impacts on water quality and is consistent with the water quality policies and provisions of the LCP.

For these reasons, the Commission finds that the appeal does not raise substantial issue regarding the project's consistency with the environmentally sensitive habitat areas (ESH) and water quality policies and provisions of the LCP.

4. Visitor Serving Commercial, Visual Resources and Neighborhood Compatibility

The appeals also assert the project is not consistent with the Coastal Act and LCP policies regarding visitor serving commercial, visual resource and neighborhood compatibility. The following policies from the County of Santa Barbara's LCP and Coastal Act were cited by the appellants or are relevant to the appellants' allegations.

Coastal Act Section 30221, as incorporated into the County of Santa Barbara LUP, states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Coastal Act Section 30222, as incorporated into the County of Santa Barbara LUP, states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Coastal Act Section 30251, as incorporated into the County of Santa Barbara LUP, states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation

and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30250(c), as incorporated into the County of Santa Barbara LUP, states:

Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Coastal Act Section 30253, as incorporated into the County of Santa Barbara LUP, states in part that new development shall:

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

County of Santa Barbara LUP Policy 2-8 states:

- a. The County shall give equal priority to the following land uses in the coastal zone of Montecito and Summerland:
 - Expansion of public recreational opportunities
 - Visitor-serving commercial uses, i.e., restaurants, retail commercial, motels, etc. Low and moderate income housing
 - Agricultural expansion
- b. In Goleta, the County shall give highest priority to low and moderate income housing and agricultural expansion followed by public recreation and visitor-serving commercial uses.

County of Santa Barbara LUP Policy 2-17 states:

Use of flexible design concepts, including clustering of units, mixture of dwelling types, etc., shall be required to accomplish as much as possible all of the following goals:

- i. Protection of the scenic qualities of the site;
- ii. protection of coastal resources, i.e., habitat areas, archaeological sites, etc.;
- iii. avoidance of siting structures on hazardous areas;
- iv. provision of public open, space, recreation, and/or beach access;
- v. preservation of existing healthy trees; and
- vi. provision of low and moderate housing opportunities.

County of Santa Barbara LUP Policy 2-18 states:

Permitted use shall include:

- a. residential units, either attached or detached.

- b. recreational facilities, including but not limited to tennis courts, swimming pools, playgrounds, and parks for the private use of the prospective residents and/or the public; and
- c. open space; and in developments of 200 residential units or greater, conditionally permitted uses may include:
- d. commercial recreational facilities (private or public) that are compatible with the proposed residential units;
- e. in especially scenic coastal areas, visitor-serving commercial facilities, i.e., a motel or restaurant. Residential density shall be reduced to accommodate facilities that provide overnight lodging.
- f. convenience establishments of a commercial and service nature such as a neighborhood store, provided:
- h. such convenience establishments are an integral part of the general plan of development for the Planned Development and provide services related to the needs of the prospective residents.
- i. such convenience establishments and their parking areas will not collectively occupy more than one (1) acre per two hundred (200) dwellings units.
- j. such convenience establishments will be located, designed, and operated primarily to serve trade and service needs of persons residing in the Planned Development and not persons residing elsewhere.
- k. such convenience establishments will not be reason of their location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics have adverse effects on residential uses within or adjoining the development, or create traffic congestion or hazards to vehicular or pedestrian traffic.

County of Santa Barbara LUP Policy 4-9 states:

Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway #101, and shall be clustered to the maximum extent feasible.

County of Santa Barbara LUP Policy 4-11 states:

Building height shall not exceed one story or 15 feet above average finished grade, unless an increase in height would facilitate clustering of development and result in greater view protection, or a height in excess of 15 feet would not impact public views to the ocean.

County of Santa Barbara LUP Policy 7-28 states:

Visitor-serving commercial recreational development that involves construction of major facilities, i.e., motels, hotels, restaurants, should be located within urban areas, and should not change the character or impact residential areas.

County of Santa Barbara LUP Policy 7-29 states:

Visitor-serving commercial recreational development in rural areas should be limited to low intensity uses, i.e., campgrounds, that are designed to protect and enhance visual resources, and minimize impacts on topography, habitats, and water resources.

County of Santa Barbara LUP Policy 7-30 states:

Visitor-serving facilities shall be permitted in rural areas only if it is determined that approval of such development will not result in a need for major ancillary facilities on nearby lands, i.e., residences, stores, gas stations.

County of Santa Barbara Coastal Zoning Ordinance Section 35-81.1 states:

Section 35-81-1: Purpose & Intent.

The purpose of the Resort/Visitor Serving Commercial district is to provide for tourist recreational development in areas of unique scenic and recreational value, while providing for maximum conservation of the resources of the site through comprehensive site planning. It is the intent of this district to provide for maximum public access, enjoyment, and use of an area's scenic, natural, and recreational resources while ensuring preservation of such resources. Where this district is applied to areas adjacent to the shoreline, uses permitted shall in part require an oceanfront location in order to operate.

County of Santa Barbara Coastal Zoning Ordinance Section 35-81.4 states:

Section 35-81.4: Findings Required for Approval of Development Plans. In addition to the findings for Development Plans set forth in Section 35-174.7 (Development Plans), no Preliminary or Final Development Plan shall be approved for property zoned or to be rezoned to Resort/Visitor Serving Commercial unless the Planning Commission also makes the following findings:

1. For development in rural areas as designated on the Coastal Land Use Plan Maps, the project will not result in a need for ancillary facilities on nearby land, i.e., residences, stores, etc.
2. For developments surrounded by areas zoned residential, the proposed use is compatible with the residential character of the area.
3. Additional requirements, identified in Division 16 (Montecito Community Plan Overlay District), exist for those parcels identified with the MON overlay zone.

County of Santa Barbara Coastal Zoning Ordinance Section 35-208.1 states:

Section 35-208.1: Additional Findings Required for Approval of Development Plans.

1. Improvements to resort visitor serving hotels have been designed to be consistent with the existing historic "Cottage Type Hotel" tradition from the early days of Montecito.
2. The facility is compatible in mass, bulk, scale, and design with the residential character of the surrounding neighborhoods.

Montecito Community Plan Policy LU-M-2.1 states:

New structures shall be designed, sited, graded, and landscaped in a manner which minimizes their visibility from public roads.

Montecito Community Plan Policy LUG-M-1.1 states:

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.

Montecito Community Plan Policy LUC-M-1.6 states:

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

Montecito Community Plan Policy VIS-M-1.4 states:

In hillsides areas where water tanks are required for structural fire-fighting purposes, tanks should be designed to: 1) blend in with natural land forms; 2) not impinge on the viewshed; and 3) be screened by landscaping.

Visitor-Serving Commercial

The project site is located on a 16-acre property developed with an existing beach resort (Miramar Beach Resort) and is zoned C-V (Resort/Visitor Serving Commercial). The Resort is currently developed with 154 hotel guest rooms, 8,481 sq. ft of resort shops, four (4) affordable employee housing units, restaurant/bar, 400-guest banquet facility, spa facility, and 435 onsite parking spaces. The approved project consists of a mixed-use development consisting of 26 affordable housing employee units, 8 market-rate housing units, and 17,500 sq. ft. of commercial spaces consisting of up to 12 resort retail shops and a resort café.

The appeal by Unite Here Local 11 contends the approved project is inconsistent with the C-V zone. However, the appeal makes a general assertion about the project's inconsistency with this zone and does not provide a specific example or explanation.

The purpose of the Resort/Visitor Serving Commercial zone is to provide for tourist recreational development in areas of unique scenic and recreational value, while providing for maximum conservation of the resources of the site. The intent of this zone

is to provide for maximum public access, enjoyment, and use of an area's scenic, natural, and recreational resources while ensuring preservation of such resources. Additionally, the C-V zone designation allows dwelling units, provided the residential use is secondary to a primary commercial use on the same lot. Furthermore, LUP Policy 2-8 gives equal priority to the expansion of public recreational opportunities and visitor-serving commercial uses, i.e., restaurants, retail commercial, motels, etc., and low- and moderate-income housing within the coastal zone of Montecito.

The County found the approved residential and commercial uses would not adversely impact recreational development on the site. The County conditioned the 2014 Resort CDP to require the visitor serving amenities (commercial space, restaurant, spa, beach bar, beach showers and restrooms, etc.) to be non-exclusive and fully open to the public. The residential development and retail commercial will not block or otherwise impact access to these amenities. Additionally, the site has recorded public access easements that provide access to the coast. Further, residential uses are allowed under the C-V zone as long as they are secondary to a primary commercial use on the same lot. A secondary use is defined as two residential bedrooms per 1,000 square feet of total gross floor area of commercial or industrial development. The existing resort floor area totals 169,000 square feet. This would result in a limit of 338 bedrooms allowed as a use secondary to the visitor serving use. The project includes 50 residential bedrooms. There are also four existing one-bedroom employee housing units, for a total of 54 residential bedrooms. The residential floor area totals 39,126 square feet. Therefore, the approved residential use is secondary to the primarily commercial use of the lot.

The appeal by Unite Here Local 11 also states the approved project is inconsistent with Coastal Act Sections 30221 and 30222. However, the appeal makes a general assertion about the project's inconsistency with these Coastal Act Sections and does not provide a specific example or explanation. Staff notes that Coastal Act Section 30221 requires the protection of recreational use on oceanfront lands, and Coastal Act Section 30222 prioritizes visitor-serving commercial recreational facilities uses on private lands. In this case, the project site is already developed with visitor-serving commercial uses, and the approved project will provide for additional visitor-serving commercial development as well as residential housing, which is allowed under the C-V zone as a secondary use, as noted above and consistent with LUP Policy 2-8.

For these reasons, the County found the project would be consistent with the requirements of the visitor-serving commercial land use designation and the C-V zone and will provide additional visitor-serving commercial uses and new residential uses consistent with LUP Policy 2-8. The County's action on the subject CDP included ample findings and evidence determining that the approved project is consistent with the LCP.

Visual Resources and Neighborhood Compatibility

Section 30251 of the Coastal Act requires the preservation of public views, minimization of landform alteration, and maintenance of overall visual compatibility. Additionally, Section 30253(e) requires new development to protect special communities that, because of their unique characteristics, are popular visitor destination points for

recreational uses. Further, LUP Policy 7-28 states that visitor-serving commercial recreational development that involves the construction of major facilities, i.e., hotels, should be located within urban areas and should not change the character or impact residential areas. The Montecito Community Plan also contains policies requiring improvements to resort visitor serving hotels to be designed to be consistent with the existing historic "Cottage Type Hotel" tradition from the early dates of Montecito (Montecito Community Plan Policy LUC-M-1.6).

Specifically, the appeal by Heal the Ocean alleges the location of the approved two- and three-story residential buildings and mixed-use retail and market-rate apartments on the perimeter of the resort and adjacent to residential neighborhoods will change the character of the residential neighborhood into a high-end commercial space and will not be visually compatible with the character of the surrounding area.

The resort is situated just south of U.S. Route 101 and north of Miramar Beach and the Pacific Ocean. It is primarily surrounded by single-family residential properties. The All Saints-by-the-Sea Episcopal Church and Parish School (Church) is located directly south and adjacent to the project site, along Eucalyptus Lane.

The County found that the approved project is consistent with the development pattern of the area and visually compatible with the character of the area. The project is an infill development consisting of the construction of three new buildings on the area of two existing surface parking lots. The development would not significantly obstruct public views from any public road or from a public recreation area to, and along the coast. The development will be visible from South Jameson Lane, Highway 101, and Eucalyptus Lane. However, views of the coast are already largely blocked from South Jameson Lane and Highway 101 by existing development and vegetation. Views from the northwest parking lot are blocked by existing vegetation, All Saints by the Sea Church, and the existing Miramar Resort guest cottages. Views from the northeast parking lot are mostly blocked by development along Miramar Beach, including residences and the Miramar Beach Bar. The proposed development will not impact views of the coast from Eucalyptus Lane as it runs north and south.

The County also found that the approved development would be compatible with the adjacent resort and residential development. The approved market-rate apartments and resort shops in the northwest parking lot will be two stories and have a height of 33'-5" for Building A and 30'-2" for Building B, both of which meet the allowed height limit of 38 feet for the C-V Zone (35 feet plus additional 3 feet for a roof pitch). These heights are consistent with the existing resort development, including the two-story guest room buildings ranging in height up to 29 feet and the Manor House, which has a maximum height of 44'-6". The affordable apartments (Building C) in the northeast parking lot will be three stories and have a maximum height of 40'-9". The project includes a waiver under the State Density Bonus Law to exceed the height limit of 38 feet for Building C, which is still below the maximum height of the Manor House. Moreover, the nearest off-site residential use to Building C is located approximately 125 feet east of the proposed development and is buffered by the 50-foot ESH buffer of Oak Creek and landscaping, as well as mature trees.

The appeal alleges that the approved mixed-use residential and retail buildings adjacent to residential neighborhoods will change the character of the residential neighborhood into a high-end commercial space. The project site has historically been developed with a resort hotel use since the late 19th century, and thus is part of the historic character of the neighborhood. The redeveloped Resort, which includes ancillary visitor serving-retail, has been in operation since 2019. The Miramar, as it existed in 1992 when the Montecito Community Plan was adopted, along with the Biltmore and the San Ysidro Ranch, are the resort visitor-serving hotels in Montecito upon which the existing “Cottage Type Hotel” tradition was based. The Biltmore and the previous Miramar hotel included large structures for congregation (restaurants, conference rooms, etc.) with attached guestrooms, and smaller buildings or cottages housing additional guest rooms.

The buildings will be compatible with the existing “Cottage Type” architecture and will use architectural details and materials similar to those of the existing resort. The project also includes landscaping along South Jameson Lane and Eucalyptus Lane to screen the development from public view and blend with the surrounding area. The project has also been designed to be entirely inward-facing to protect and preserve the character of the community to the west and south. These resort shops will also primarily serve Resort guests and local residents.

For these reasons, the County found the project would be visually compatible with the area's character and not change the neighborhood's character, consistent with Coastal Act Sections 30251 and 30253(e). The buildings have been designed to be compatible with the “Cottage Type” architecture from the early days of Montecito (Montecito Community Plan Policy LUC-M-1.6).

The appeal also argues that the approved retail shops will bring the first commercial retail structures to the neighborhood. However, the appellant's claims are vague and general, lacking any specific references to an LCP coastal resource protection policy that prohibits or restricts retail shops in this area. Regardless, the Resort is currently developed with retail shops, and therefore, the approved retail shops will not be the first commercial retail structures in the neighborhood.

Lastly, the Heal the Ocean appeal contends that the project is inconsistent with LUP Policies 2-17 and 2-18. However, these policies apply to development on lands with a zoning designation of “Planned Development.” Therefore, these policies do not apply to this project and are not valid grounds for appeal. Additionally, the appeals cite inconsistencies with LUP Policies 4-9 and 4-11. However, these policies apply to development within the County's View Corridor Overlay designation. The subject site is not located within the View Corridor Overlay, and as such, these policies do not apply to this project and are not valid grounds for appeal.

Additionally, the Unite Here Local 11 appeal alleges the project is inconsistent with Montecito Community Plan Policy VIS-M-1.4. However, VIS-M-1.4 applies to the siting of water tanks. The approved project does not include water tanks; therefore, this policy does not apply to this project and is not a valid ground for appeal. Further, the Unite Here Local 11 appeal cites inconsistency with LUP Policies 7-29 and 7-30. However,

these policies regulate visitor-serving facilities and visitor-serving commercial recreational development in rural areas. The project site is not within a rural area; therefore, these policies do not apply to this project and are not valid grounds for appeal.

For these reasons, the County's action on the subject CDP included ample findings and evidence determining that the approved project is consistent with the relevant visitor-serving commercial land use designation, visual resources, and neighborhood compatibility standards of the County's LCP. As such, the Commission finds that the appeal contentions regarding conformance with development do not raise a substantial issue.

5. CEQA

The appellants also allege that the County failed to comply with the California Environmental Quality Act (CEQA). However, the appellants' contention about the adequacy of the County's CEQA review does not allege an inconsistency with the certified LCP. Rather, the appellant alleges that the County's exemption determination was legally incorrect and violates CEQA. This concern is not a valid ground for appeal, as it does not relate to conformity of the project as approved with the certified LCP or the public access policies of the Coastal Act. The Commission therefore finds that this contention is not a valid ground for appeal pursuant to Section 30603(b)(1) of the Coastal Act.

6. Factors Considered in Substantial Issue Analysis

The standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the appealable development's conformity to the policies contained in the certified LCP and/or the public access policies of the Coastal Act. In this case, the appellants' cited policies contained in the certified LCP and several public access policies of the Coastal Act as grounds for appeal.

The Coastal Act states that the Commission shall hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603. (Section 30625(b)(2).) Section 13115(c) of the Commission's regulations provides that the Commission may consider various factors when determining if a local action raises a significant issue, including but not limited to the following five factors, which are addressed below.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the Coastal Act and certified LCP. In this case, as discussed in detail above, the Commission finds that the County had substantial factual support for its conclusion that the proposed project would not have a significant impact on coastal resources. The County made all required findings for its approval of the waivers of development standards pursuant to the State Density Bonus Law. Further, the County made the required findings for the approved CDP, and

the County's record includes substantial factual evidence and legal support for the County's findings that the project is consistent with all of the applicable policies and provisions of the Coastal Act and certified LCP. This factor weighs heavily against finding substantial issue.

The second factor is the extent and scope of the development as approved. As described above, the approved project consists of residential and commercial development on an infill lot developed with an existing resort within an urban area of the County. The project would add compatible uses to the site that are consistent with the land use regulations for the site. The scope of the development is limited to infill urban development well served by a public highway and is not anticipated to have substantial impacts to adjacent sites or coastal resources. This factor weighs against finding a substantial issue.

The third factor is the significance of coastal resources affected by the decision. ESH and public coastal access are significant coastal resources that are accorded maximum protection under the County's LCP. As previously discussed, the project site is an infill lot developed with an existing resort within an urban area of the County and is adjacent to the beach, an existing church, and single-family residences. The County's findings that the approved project will not result in a significant disruption to habitat values and is consistent with the ESH and ESH buffer policies and provisions of the LCP, and the project will not result in impacts to public access are correct. Furthermore, the project will be compatible with the surrounding area and will have no adverse impact on scenic views, visual resources, or coastal hazards. As such, there are no significant coastal resources that would be negatively affected by the County's decision. This factor weighs against finding a substantial issue.

The fourth factor is the precedential value of the local government's decision for the future interpretation of its LCP. In this case, the Commission finds that the County applied the Coastal Act and its LCP policies correctly in finding that the project is consistent with the policies and provisions of the LCP. As such, the County's decision will have no significant precedential value for future CDP decisions, and this factor weighs against finding substantial issue.

The final factor is whether the appeal raises issues of regional or statewide significance. This project is for the construction of a mixed-use residential and commercial project providing 34 residential units (including 26 affordable employee units) on an infill visitor-serving commercial-zoned property. The approved development is consistent with the policies and provisions of the LCP, will not result in any adverse impacts to significant coastal resources, and does not raise significant regional or statewide issues. Thus, this factor also weighs against finding substantial issue.

In conclusion, the Commission finds that taken together, the above factors do not support finding that a substantial issue exists. Applying the five factors identified above, the Commission finds that the following factors weigh against finding substantial issue: first, the County's record adequately supports its position that the proposed project is consistent with the applicable Coastal Act and LCP policies; second, the extent and scope of the development is not significant; third, significant coastal resources are not

affected; fourth, the local government's decision will not have a significant precedential effect on future interpretation of the County's LCP; and fifth, it does not raise regional or statewide issues, much less significant ones. Therefore, as discussed above, the Commission finds that the appeal raises no substantial issue with respect to the consistency of the approved development with the policies of the County's certified LCP or the public access policies in Chapter 3 of the Coastal Act.

APPENDIX A

Substantive File Documents

Certified County of Santa Barbara Local Coastal Plan; County of Santa Barbara Administrative Record for CDP No. 24CDP-00077; Parking Analysis for the Miramar Beach Resort by Associated Transportation Engineers, dated June 25, 2024; Traffic and VMT Analysis for the Miramar Beach Resort by Associated Transportation Engineers, dated June 25, 2024; Parking Analysis Memo for the Miramar Beach Resort by Associated Transportation Engineers, dated October 28, 2024; Parking Analysis Memo for the Miramar Beach Resort by Associated Transportation Engineers, dated December 5, 2024; Review of the Trip Generation Forecast for the Miramar Beach Resort Memorandum by Linscott, Law & Greenspan, Engineers, dated December 4, 2024; Sea Level Rise Flood Hazard Discussion for Miramar Beach Resort prepared by GeoSoils, Inc., dated June 11, 2024; Biological Resources Assessment Report Miramar Beach Resort prepared by Dudek, dated June 2024; Water Resource Report Miramar Beach Resort prepared by Flowers and Associates, Inc., dated June 27, 2024; Preliminary Drainage Analysis for Miramar Beach Resort prepared by Flowers and Associates, Inc., dated September 4, 2024; Stormwater Control Plan for Miramar Beach Resort prepared by Flowers and Associates, Inc., dated September 4, 2024; Technical Memorandum for Miramar Beach Resort prepared by Flowers and Associates, Inc., dated December 2, 2024; Technical Memorandum for Miramar Beach Resort prepared by Flowers and Associates, Inc., dated January 16, 2025.