

# LAW OFFICE OF MARC CHYTILO

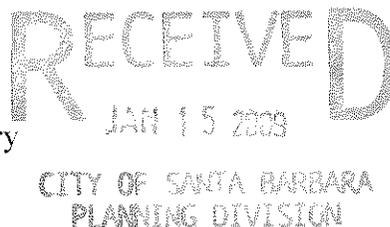
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ENVIRONMENTAL LAW

January 15, 2009

Ms. Kathy Kennedy  
Community Development Department  
City of Santa Barbara  
Santa Barbara, California 93101

By Hand Delivery



RE: El Encanto Hotel Master Plan Revision Negative Declaration - Public Comments

Dear Ms. Kennedy:

As you know, this office represents several families with homes adjacent to the El Encanto hotel. While these families have specific concerns regarding the impacts that the City's past and present approval of incremental changes to the Hotel and its grounds have had and will have on the quiet tranquility of their neighborhood, they also have a larger concern over the City's process for considering the environmental consequences of land use permitting decision, and the City's compliance with CEQA. The El Encanto Hotel is a community resource, with its historic and picturesque grounds set adjacent to Orpet Park and the Riviera campus. CEQA's environmental review process benefits the entire community, and the errors and non-compliance identified in this letter are of broad community concern. Please accept these comments and provide to me your written responses to all comments the City receives on this environmental review document.

## I. GENERAL COMMENTS

The City's environmental review and decision making process must satisfy strict Legislative and judicial mandates as summarized here. "The foremost principle under CEQA is that the Legislature intended the act 'to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.'" *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 926. "The EIR requirement is the heart of CEQA." Cal. Code Regs., tit. 14<sup>1</sup>, § 15003 (a). An EIR identifies the significant effects a Project will have on the environment, identifies alternatives to the project, and indicates the manner in which the significant effects can be mitigated or avoided. Public Resources Code § 21002.1(a). Its purpose is to "inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made", protecting the environment as well as informed self-government. *Citizens for Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal. 3d 553, 926-927. CEQA creates a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is

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<sup>1</sup> This code section referred to hereafter as the "CEQA Guidelines or Guidelines."

warranted.” *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal. App. 4<sup>th</sup> 896, 904-905; Public Resources Code § 21151. A public agency must prepare an EIR where it exercises discretion in modifying or conditioning a project that *may* have a significant effect on the environment. Public Resources Code §§ 21080 and 21100(a); CEQA Guidelines § 15357; *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas et al.* (1994) 29 Cal.App.4<sup>th</sup> 1597, 1601.

1. CEQA Practices

a. City’s Lack of Clearly Articulated CEQA Thresholds

CEQA mandates that every jurisdiction “adopt by ordinance, resolution, rule or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations.” Public Resources Code § 21082. This requirement has been interpreted to authorize adoption of CEQA impact thresholds, which serve an important function in establishing uniform standards for the environmental review process. Thresholds “promote[] consistency, efficiency, and predictability in the initial study process. California Office of Planning and Research, Thresholds of Significance: Criteria for Defining Environmental Significance (CEQA Technical Advice Series, September 1994), p.4.

Upon inquiry to your office, I was advised by the City’s Environmental Analyst Melissa Hedrick that the City has no single set of CEQA Thresholds *per se*, but instead relies upon a number of sources of information for this purposes, including the 1981 Master Environmental Assessment (MEA), General Plan policies, and on occasion, CEQA thresholds from other agencies and jurisdictions for this purpose. As shown below, the MND arbitrarily chooses between these sources of authority, often without citation or attribution, to support the conclusion of no significant project impacts. This policy and practice has turned the City’s CEQA environmental review process into a guessing game played by “Alice-In-Wonderland” rules, where applicable standards are selected to suit a particular outcome with limited consideration of the salient facts or considerations.

b. The Master Environmental Assessment (MEA) is Outdated

The City adopted a MEA in 1981. Under CEQA, the MEA has a specific series of functions. Guidelines § 15169 explains that an MEA is used “to provide information that may be used or referenced in EIRs or negative declarations. . . . A master environmental assessment is suggested solely as an approach to identify and organize environmental information for a region or area of the state.” Guidelines § 15169(a). It is clear that an MEA must be current and up to date to have any utility in a CEQA environmental review process. “The information contained in a master environmental assessment should be reviewed periodically and revised as needed so that it is accurate and current.” Guidelines § 15169(c)(2). The MEA is 27 years old, and completely out of date. The MEA itself admits “the MEA needs updating and will periodically need information

base “tune ups” if it is to be of any use in the future.” MEA, p. 6. The MEA itself has not been regularly updated, and therefore, by its own terms, cannot be relied upon for any of the MEA functions, either of providing baseline environmental conditions or serving as thresholds from which to determine the significance of environmental impacts.

c. State Clearinghouse Review required

The City erred in failing to circulate the draft MND to responsible and trustee agencies and provide copies to the State Clearinghouse. Such review is mandatory in light of the Project’s potentially significant impacts to historical resources, for which the State Office of Historic Preservation is a trustee agency, Public Resources Code § 21082.1(c)(4), for impacts to biological resources for which the Department of Fish and Game is a trustee and responsible agency, *id.*, and because the proposed renovations to the El Encanto Hotel are of sufficient area wide environmental significance under the CEQA Guidelines due to the recognized historical resources present. Guidelines § 15064.5 (site locally listed and determined eligible for state and federal listing and project involving demolition, relocation and alteration of the resource and immediate surroundings).

The entire El Encanto Hotel Project site has been designated a Structure of Merit. Historical Structures/Sites Report, El Encanto Hotel, 1900 Lasuen Road, Santa Barbara, California 93103, APN 19-170-01, prepared by Preservation Planning Associates, December 2002 (hereafter “2002 HSSR”, attached as Exhibit 16) at p. 50. Nearly each individual building and the landscaping qualifies as a Landmark or Structure of Merit. *Id.*, p. 55-58. El Encanto is eligible for listing as a district in the California Register of Historic Places. *Id.*, p. 58. El Encanto is eligible for the National Register of Historic Places. *Id.*, p. 58-59.

The Project includes demolition of cottages 22-24 and construction of a new complex in their place. Although the cottages themselves have been characterized as non-contributing, the 2002 HSSR imposed a required mitigation measure that any alterations of any buildings at El Encanto Hotel, including non-contributing buildings, must be reviewed by the Historic Landmarks Commission, reflecting the historical nature of the site as a whole and consequently the potential for a substantial adverse change. Exhibit 16, p. 64; Guidelines § 15064.5(b). The Project further will cause a substantial adverse change to the immediate surroundings of the individual historical buildings from the installation of the utility distribution facility, Valet Parking Structure and operations facility in the northwest corner of the site, which had recognized historical value associated with the presence of Cottages 17-19, including the associated landscaping. These changes trigger the requirement for submittal to the State Clearinghouse. Public Resources Code § 21082.1.

The California State Office of Historic Preservation is a Trustee agency for historical resources in California. Public Resources Code § 21080.3(a). As part of the State Office of Historic Preservation’s functions, it “reviews and comments on a select number of projects pursuant to

the California Environmental Quality Act (CEQA). CEQA requires that public agencies consider the effects of their actions on historical resources eligible for listing in the California Register of Historical Resources.” State Office of Historic Preservation website, Project Review, [http://ohp.parks.ca.gov/?page\\_id=1071](http://ohp.parks.ca.gov/?page_id=1071). The City’s 2002 revision to the MEA for Archaeological and Historic Resources expressly references the State Office of Historic Preservation’s role in historical resource protection. P. 47.

The State Historic Preservation Officer has recently written extensive comment letters on Santa Barbara historical properties, the Santa Barbara Botanic Garden and the Santa Barbara Ranch. These comments were detailed and exhaustive, and guided the lead agency (the County in those cases) in better protecting sensitive and vulnerable historical resources. Exhibit 8 (Santa Barbara Botanic Garden). Commenter believes that the State Historic Preservation Officer may comment on this Project, and in any case, is entitled to notice of the City’s MND.

It is clear error for the City to fail to notify the State Office of Historic Preservation of its past and pending actions concerning the historic El Encanto Hotel project. *Fall River Wild Trout Foundation v. County of Shasta* (1999) 70 Cal. App. 4<sup>th</sup> 482, 490-491. The El Encanto Hotel project will potentially adversely affect historical resources, as evidenced by the Mitigated Negative Declaration’s admission and by the multitude of Historic Landmarks Commission hearings and their extensive analysis and modification of this Project to better protect historical resources. The State Office of Historic Preservation is a Trustee agency for historical resources in the state. The site has significant historical resources, and such resources will be adversely affected by the City’s action. As such the City must consult with State Office of Historic Preservation over this project. State Office of Historic Preservation consultation implicates the need for State Clearinghouse Circulation.

It appears that the City has engaged in a pattern and practice of failing to consult with trustee and responsible agencies. Revisions to Public Resources Code § 21082.1 in 2002 require “virtually all environmental documents, including Negative Declarations, to be submitted to the State Clearinghouse for review and comment by state agencies.” Guide to CEQA, Solano Press, 11<sup>th</sup> Edition, p. 305. The City’s CEQA Guidelines, adopted in 1994, fail to reflect this requirement. Consultation must occur “[a]s soon as a Lead Agency has determined that an initial study will be required” for a project. Guidelines § 15063(g). It appears that the City has engaged in a pattern and practice of failing to provide copies of draft environmental review documents to the State Clearinghouse as required by Public Resources Code § 21082.1(c)(4). The City is hereby requested to reform its practices in this and all future projects, and further to adopt revised CEQA Guidelines that clearly describe procedures for such compliance.

d. Inadequate Posting at County Clerk Mandates Re-noticing and New Comment Period

CEQA mandates that the City submit to the County Clerk notice of the City's intent to adopt a Negative Declaration. Guidelines § 15072. The County Clerk must then post the notice for at least 20 days. Guidelines § 15072(d). No posting at the County Clerk's office occurred, and there is no evidence that the City's notice of intent was provided to the County Clerk. In any event, the posting was not timely accomplished. Since the fundamental purpose of the posting requirement is to inform and involve the public, the failure to provide proper notice is a defect infecting further City processing of the Negative Declaration. Since the public holds a "privileged position" in the CEQA process, and the public is expected to "make important contributions to environmental protection," *Concerned Citizens of Contra Costa County v. 32<sup>nd</sup> District Agricultural Ass'n* (1986) 42 Cal. 3d 929, 936, the City must properly re-notice its intent and a new public comment period "to allow the public and agencies the review period provided under Section 15105." Guidelines § 15072(a).

## II. PROJECT COMMENTS

### 1. The MND Is Materially Flawed

The sufficiency of a negative declaration as an informative document depends largely on "whether policymakers have been adequately informed of the consequences of their decisions, and whether the public has sufficient information to evaluate the performance of their elected officials." *Long Beach Sav. & Loan Ass'n v. Long Beach Redevelopment Agency* (Cal. App. 2d Dist. 1986) 188 Cal. App. 3d 249, 259. The agency must in good faith strive to make the negative declaration as complete and comprehensive as possible. *Id.* at 264.

#### A. Project Description

"An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." *McQueen v. Board of Directors* (6<sup>th</sup> Dist. 1988) 202 Cal. App. 3d 1136, 1143. The Project Description included in the MND is general and vague, preventing an "intelligent evaluation" of potential Project impacts. For example, the description of the "operations facility" is that it would be below the Valet Parking Structure and include on-site laundry services, staff lockers, storage, and staff offices. Initial Study, p. 2. Similarly, the Utility Distribution Facility "is described as an integral component of the overall operation of the hotel . . . [including] an electrical room, condensed water cooling equipment and air ventilation." *Id.* The utility distribution facility was previously called a "Central Plant" at the same location and included "boilers, water heaters, storage tanks and cooling towers with acoustical silencers". Planning Commission Staff Report, 1900 Lasuen Road, El Encanto Hotel (MST2008-00328), August 14, 2008, p. 3. The Negative Declaration's

Project Description is unclear whether these other components of the Central Plant are included or not. The ambiguity is compounded by the Negative Declaration's reference to an acoustical study that states "it is understood that the underground utility distribution facility will contain water heating and cooling equipment". Appendix F, November 20, 2009, page 7.

The Negative Declaration's Project Description is inadequate in failing to provide a complete description of the water heating system in the utility distribution facility, and in failing to provide necessary information on the operations facility, such as the nature, equipment and routing of the laundry facility and processes. Detail on water heating and laundry equipment is necessary to calculate project air pollution emissions, including greenhouse gasses and oxides of nitrogen (assuming natural gas is used for water heating). The design of the operations facility does not specify how and where supplies, dirty and clean laundry, and employees will enter and leave the facility. The Project Description does not identify the location of all employee parking, or provide details on the number and type of employees, precluding an understanding of the impact shift changes, routine and extraordinary operations will have on surrounding communities.

The Project Description does not provide a description of the external appearance of the project. As noted below, aesthetic impacts cannot be understood or responded to based on the Project Description and information in the Mitigated Negative Declaration. What walls will be visible from outside the property? Which trees will remain, and for those replaced, what trees will replace them? The ND states skyline trees will replace any removed eucalyptus, but the Historic Landmarks Commission prohibited skyline trees for this purpose. The Mitigated Negative Declaration is ambiguous and inconsistent with other City decisions. The public is left to speculate about the scope of the Project, leading to substantial uncertainties about the Project's external appearances, open questions over air and noise pollution profile, and related topics. In the absence of a complete, stable and sufficiently detailed Project Description, public review and comment is a futile exercise.

#### B. Illegible Plans

Contributing to the dearth of specific project information are the poorly scanned and reproduced plans posted to the City website. They are scanned at such low resolution that they are impossible to read at smaller size and illegible when zoomed in. The plans are illegible and fail to provide sufficient Project information for the public to review and comment upon the Project's environmental effects. Further, the timing of the release of the notice, immediately before the year-end holidays, limited the public's ability to review the larger scale plans due to staff vacations. Exhibit 17.

#### C. Related Projects

The City has made at least eight substantial conformity determinations for other changes to the 2002 Master Plan, and has approved numerous other permits for building demolitions,

renovations, and replacements. See Exhibit 1, Project Chronology. There have been other changes, for example, the applicant changed final plans from those considered by inferior administrative bodies at the preliminary stage (e.g., HLC's determination that proposed final cottage 12 plans had changed dramatically from those considered at the preliminary stage). The Main Building has been increased in height, size and bulk, and was completely demolished although the Master Plan required that the building be preserved. The cumulative effect of serial piecemealed project approvals is a significant impact, but to even consider this effect, the MND must list, describe, and explain the environmental consequences of each to the piecemealed parts of the Project, previous, current, and contemplated.

There are additional forms of cumulative impacts. The applicant has begun renovation and construction on buildings it now proposes to demolish (in the Mission Village area), exposing the community to needless and excessive construction noise and nuisance. Historic buildings have been relocated without preserving or documenting associated historical landscaping. Trees with historical significance have been topped, pruned, and even removed either for public safety purposes or simply as part of the remodeling. November 2008 HSSR Addendum, p. 3. Aesthetically unpleasing construction fencing has been erected and left in place for years, with it now expected to remain in place for years to come. Start and stop renovations has the potential for historical structures to be unnecessarily degraded, such as what happened with the deterioration of the historic Miramar cottages during the prolonged period of hotel closure. The neighboring community has endured an open construction site for years, with noise, trucks, dust, light, blight, erosion and sediment, and loss of the integrity and cohesiveness of their community.

Consequently, the project will cause cumulative impacts to historical resources, to visual resources, to stormwater runoff, to noise, to neighborhood incompatibility, and as such, the use of a Mitigated Negative Declaration is not permitted. Guidelines § 15065(a)(3).

#### D. Baseline - a Stale MEA

The Negative Declaration relies exclusively on the MEA to characterize the existing site characteristics. As noted, the MEA is nearly 30 years old and out of date. Conditions 30 years ago are not particularly relevant to the current impact analysis. Noise, biological resources, visual resources, flooding and drainage conditions have changed, and there is new information regarding archaeological resources, seismic conditions and fire hazard. Reliance on the 1981 MEA for baseline site conditions precludes an adequate environmental review document. "It is stressed that without systematizing the updating process, it is likely that the MEA will lose applicability and become ineffective as an environmental planning tool." MEA, 1981, Appendix B, Methodology for Updating the MEA, p. 142. Although the MEA suggests an annual update, the MEA utilized by the City in the preparation of this MND is essentially the version adopted in 1981 with no annual or other routine updating (with the exception of the 2002 Historic and Archaeological MEA). It thus fails as a baseline and foundation for the El Encanto Hotel MND due to its age and ineffectiveness as a planning tool.

E. The City Has a Pattern and Practice of Relying on the Antiquated MEA and, Based Thereon, Improper CEQA Analysis and Review

The City, in failing to update the MEA annually as it requires, but relying on it as a foundation for all City environmental review documents nevertheless, is engaged in a pattern and practice systematically violating CEQA, basing environmental review documents, determinations of exemption, and planning decisions on outdated and inaccurate characterizations of existing conditions. CEQA requires identification of accurate baseline environmental conditions for each project, and the use and reliance upon the MEA thwarts satisfaction of this requirement. *East Bay Muni. Util. Dist. v. Cal. Dep't of Forestry and Fire Protection* (1996) 43 Cal. App. 4th 1113.

Examples of stale data in the MEA relevant to this Project include characterization of ambient noise pollution from Highway 101 and the railroad not affecting the Project areas. MEA, p.83. These sources are now more frequent (railroad) and loud (101) than they were in 1981, when Highway 101 traffic stopped for traffic signals and rail service was a fraction of today's frequencies.

CEQA defines the baseline as the existing environmental setting at the time the environmental review process begins, generally presumed to be when the application is deemed complete. Guidelines § 15125. These are the conditions in existence when the applicant first applied to the DART for the Revised Master Plan (MST2007-00140) in March 2008.

The courts have held that an agency "should not be allowed to hide behind its own failure to gather relevant data" as a basis for narrow environmental review. *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 311. "Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." *Id.*

Here the inadequate Project Description, defects in information disclosure, and cursory impact analysis, detailed below, culminate in a patently inadequate "full disclosure" environmental review document. Major revision and recirculation is required, advisedly in the form of an environmental impact report.

2. Significant Impacts

CEQA establishes a low threshold for the preparation of an EIR, "which reflects a preference for resolving doubts in favor of environmental review." *Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal. App. 4th 689, 703. Accordingly, the lead agency must prepare an EIR, as opposed to a Negative Declaration or Mitigated Negative Declaration, whenever substantial evidence in the record supports a "fair argument" that the Project may have significant environmental impacts, even where substantial evidence also supports the opposite

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conclusion. *No Oil Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75. “[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” Guidelines § 12080 (e)(1). This letter, the attached Exhibits, the comment letters from experts and members of the public, comments from Historic Landmarks Commission members and other information constitute substantial evidence in the record supporting a fair argument that the El Encanto Hotel Project may have significant environmental impacts; as such, the City must prepare an EIR in order to comply with CEQA. *See Id.*

Pursuant to the “fair argument” test, an agency is required to prepare an EIR instead of a negative declaration if the record contains substantial evidence supporting a fair argument that the project *may* have a significant effect on the environment. *League for Protection*, 52 Cal. App. 4<sup>th</sup> at 904. This test does not require that the evidence received by the agency affirmatively prove that significant environmental impacts *will* occur, only that there is a reasonably possibility that they will occur. *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 309. Moreover, “[i]f there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration. *Id.* at 310 (quoting *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002).

#### A. Mandatory Findings of Significance

CEQA Guidelines § 15164 requires a finding of significant impact when a project has a potential to eliminate an important example of the major periods of California history, Guidelines § 15164(a)(1), or that are cumulatively considerable. Guidelines § 15065(a)(3).

There can be no question whether the entire site, and most of its buildings, represent an important example of a major period in California history, in particular, Santa Barbara’s history. As described herein and through the past actions of Staff and the Historic Landmarks Commission, there have been and will be impacts to the historic El Encanto Hotel, which has been designated a Structure of Merit and determined eligible for listing in the California and national Registry of Historic Places. The Project is poised to demolish portions of the cultural landscape that is a leading example of the cultural landscapes of this era.

Additionally, the Project follows an extraordinary series of earlier Project phases, as demonstrated in Exhibit 1. Virtually every preceding step involved impacts to the historic and visual features present on the site, and since this is the first environmental review document prepared for all prior phases of the Project, the cumulative and incremental effect of those earlier actions on these environmental features must be added to the Project’s immediate, individual impacts to determine whether there are cumulative impacts. Guidelines § 15064(h)(1).

## B. Visual Impacts

“‘Significant effect on the environment’ means a substantial, or potentially substantial, adverse change in the environment.” Public Resources Code § 21068. CEQA Under CEQA, there is a “rebuttable presumption [that] any substantial, negative aesthetic effect is to be considered a significant environmental impact for CEQA purposes.” *Quail Botanical*, 29 Cal.App.4th at 1604. Further “it is inherent in the meaning of the word ‘aesthetic’ that any substantial, negative effect of a project on view and other features of beauty could constitute a ‘significant’ environmental impact under CEQA.” *Id.* Impacts to private as well as public views may be significant under CEQA. *Ocean View Estates Homeowners Ass’n Inc. v. Montecito Water District* (2004) 116 Cal. App. 4<sup>th</sup> 396, 402.

The MND’s approach to visual impact analysis is random and arbitrary. Lacking thresholds or a methodology, the MND fails to either provide an orderly analysis of visual impact issues or to even disclose the nature of the visual changes associated with the Project and related past and future projects. An agency “should not be allowed to hide behind its own failure to gather relevant data” and “[d]eficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Sundstrom*, 202 Cal. App. 3d at 311.

### a. Existing Visual Setting

The MND mistakenly assumes the parcel is not “located in an area of visual sensitivity,” citing the MEA but without providing a page citation or any specific information to support such a contention.<sup>2</sup> Common sense refutes this preposterous assumption. Moreover, the City’s Land Use Element of the General Plan concludes that Mission Ridge Road “runs primarily through rural residential areas or extraordinary scenic value, which should be protected and enhanced for the residents of Santa Barbara.” Land Use Element, pages 119, Exhibit 2. While this language is describing the scenic roadway features, there can be no dispute that this applies to the El Encanto Hotel site and the surrounding lands. The Riviera campus, Orpet Park, APS, and Mission Ridge Road all possess exceptional scenic values and features, and all display “visual sensitivity” as referenced in the MND.

### b. Scenic Views

The MND contends that the Project would not “block any existing public views” or “obstruct any public vantage points” (MND at 5) but overlooks the visibility of portions of the Pool from Lasuen road, the MTD bus stop, and the northern perimeter of Orpet Park.

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<sup>2</sup> Throughout the MND, there are no specific references to citations to the MEA or any other documents. It is impossible to verify many of the MEA cites.

The MND relies on the assumption that the Project “does not include the removal of substantial amounts of vegetation or trees” (MEA, p. 5) for the conclusion of no possible significant impacts, but in fact the Project involves removing of much of the perimeter vegetation, the loss of skyline trees and of a general renovation of the landscaping on the site. “Throughout the grounds, shrubs and trees will be selectively thinned and sparse areas will be filled in with an appropriate species.” Exhibit 3. El Encanto Hotel Dear Neighbor, p. 5. The MND assumed no substantial amount of landscaping change, but that assumption is refuted by the substantial evidence that the vegetation, including screening shrubs and trees will be thinned and open areas closed in. *Id.*, Project Plan L-L1.0. The Project has the potential to cause significant impacts to views and scenic features through the removal of substantial amounts of existing vegetation and installation of additional plantings in other locations.

### c. Cumulative Impacts

The MND is silent throughout concerning cumulative impacts. The expansion of the Main building, including the increased height, size and bulk, is quite visible from Orpet Park and Lasuen Road. The combined, or cumulative effect of the Project, added to the impacts of other phases and elements of the El Encanto Hotel renovations, is a significant impact to scenic views.

Adding the loss of trees, both from the Project and from previous and other elements of the El Encanto Hotel renovations, further accentuates and adds to the cumulative visual effects. Reportedly five eucalyptus trees were cut down on the Project’s northern boundary along Mission Ridge Road, and five more are at risk on the western boundary. Some may be diseased or threaten public safety from risks of falling and contributing to fire hazards. The cumulative effect of the loss of these skyline trees in such a visually sensitive area is potentially significant.

Other sources of cumulative effects include the loss of screening vegetation, blockage of private and public views of the ocean, the city and/or scenic landscapes from construction of new buildings, introduction of construction fencing, signage, security stations and other visual evidence of the construction process, addition of new buildings and walls visible and potentially visible from off-site and from private residences, introduction of buildings and construction equipment and materials in areas that are defined as setback areas in the zoning ordinance, increased lighting during construction and operation of the facility.

As noted previously, the existence of potential Project impacts that are cumulatively considerable necessitates the preparation of an environmental impact report. Guidelines § 15065(a)(3). This is a project that has experienced serial piecemealed review and approval, leading to disjointed impact analysis, conditioning and mitigation. Construction delays, changes in the project description, changed ownership and landowner approach to the site, and other shifts in the circumstances surrounding the project and site have caused project-related impacts that are cumulatively considerable. An environmental impact report is required.

d. Private Views

The MND states that “[u]nder CEQA, the evaluation of a project’s potential impacts to scenic views is focused on views from public (as opposed to private) viewpoints. The importance of existing views is assessed qualitatively based on whether important visual resources such as mountains, skyline trees, or the coastline, can be seen, the extent and scenic quality of the views, and whether the views are experienced from public viewpoints.” MND p.5.

The MND’s characterization of CEQA is wrong. In *Ocean View Estates Homeowner’s Association v. Montecito Water District* (2006) 116 Cal. App. 4<sup>th</sup> 396,402-403, it was found that evidence of visibility of a project from several private residences, along with some public view areas, was substantial evidence necessitating an environmental impact report. See Exhibit 19, Montecito Water District DEIR, Ortega Reservoir Improvement Project, Section 4.2, September 2004 (including analysis of private views and photosimulations).

North of the Project are a considerable number of private homes whose views will be adversely impacted by construction and operation of the renovated El Encanto Hotel. At least 7 homes are on Mission Ridge Road, and more abut the property on Mira Vista Ave. and El Encanto Road. The project will have direct effects on scenic views from these houses, as well as from public view locations on Mission Ridge Road, Orpet park, and other viewing places. Many residents of the area walk these roads and paths in the area, and the scenic features of the area are this regularly experienced at low speeds and from close range. The Project will cause potentially significant adverse changes affecting scenic views from modification of vegetation, from the erection of new buildings, perimeter walls, new entry places onto the site, and from the multitude of changes, through poorly described, will follow from the renovation and modernization of the El Encanto Hotel.

e. On-site Aesthetics

The MND relied exclusively on the actions of the Historic Landmarks Commission accepting various reports and certain modifications to structures and the site as the basis to conclude there are no impacts to the on-site aesthetics. The Historic Landmarks Commission’s review and jurisdiction are limited to historical resources and features, and there are various aspects to the El Encanto Hotel’s aesthetic features that are not considered by the Historic Landmarks Commission. For example, a number of the structures are not determined to be historic, and thus not of particular concern to Historic Landmarks Commission. In fact, these are the buildings that are most likely to be demolished, substantially changed, or otherwise affected by the Project. As noted infra, the Historic Landmarks Commission did not fully analyze the cultural landscape features of the project, which have both historical and aesthetic value.

See also Exhibit 21, comment letter of Ken Doud, Videoscapes, January 15, 2009, incorporated by reference herein, as corroborating substantial evidence of potential significant visual impacts.

### C. Historic Resources

The MND devotes a total of three paragraphs to the historical resources impact analysis, citing the Historic Structures/Sites Report, El Encanto Hotel, 1900 Lasuen Road, prepared by Alexandra C. Cole, December 2002, (hereafter the "2002 HSSR"), the November 2008 addendum, and summarizing only a portion of the Historic Landmarks Commission's deliberations on the topic. In a telling omission, a considerable number of Historic Landmarks Commission meeting minutes are not included in the appendix, with at least three Historic Landmarks Commission meetings omitted. Exhibit 5.

#### a. HLC Review

The MND refers to the Historic Landmarks Commission determinations as a dispositive analysis of all historical, and some of the visual impact analysis. City decisionmakers and the public are not informed of the impact analysis by this incorporation by reference. The analysis should be reflected overtly in the environmental review document, not by reference to part of the Historic Landmarks Commission's deliberations.

Additionally, the Historic Landmarks Commission simply did not perform the comprehensive environmental impact analysis and make the sweeping findings of no possible significant impact implicitly presumed by the MND.

On May 14, 2008, the Historic Landmarks Commission unanimously determined that "the proposed construction of a Valet Parking Structure above grade is not acceptable." Exhibit 5, p. 10. Copies of Plan LBH.02, secured independently from the City due to the illegibility of the posted copies accompanying the MND, clearly shows that the Valet Parking Structure entrance is 2.5 feet above grade, as do elevations dated 10-19-08. Far from receiving HLC's approval, the applicant has at times defied the direction of the HLC and submitted plans that fail to meet their stated requirements. For example, HLC's July 9, 2008 minutes reiterate that the applicant was directed to "[l]ower the parking at the beginning of the ramp by several feet, continue with a reasonable slope for drainage, and end it with at least a five foot high wall at the lowest end to reduce headlights shining onto Alvarado Street from the parking lot." P. 15.

On May 14, 2008, the HLC directed the applicant to return with a site plan including all landscaping, but the May 28, 2008 minutes, Exhibit 5, instead reflect a series of additional concerns as follows: "**Motion: Continued two weeks with the following comments:** 1) The model provided was appreciated. 2) The style of the buildings is acceptable. 3) The size, bulk, and scale of the proposed Mission Village are not supportable. 4) Before the Mission Village project returns for review, the neighbors and concerned parties should be notified. 5) There was concern about the expression of the plinth at the parking structure. Provide a transition between the existing buildings and Mission Village buildings. 6) The elevations as a composite of the adjacent buildings should be shown on the plans. 7) The proposal is not in keeping with the rest

of the site. A unifying theme should be established, possibly with a plaza in the middle of the buildings, where the currently proposed Cottage 33 is. **8)** The inclusion of landscaping is very important as it would soften the buildings. **9)** A real penetration for trees should be provided through the parking structure. **10)** The berming should be as natural as possible.  
Action: Adams/Boucher, 8/0/0. (Curtis absent.) Motion carried.”

The HLC continued deliberations through June and July 2008, noting various areas of concern, inserting specific requirements not reflected in the MND (e.g., on June 11, HLC imposed a specific tree requirement for the final plan). In July the HLC directed specific tree conditions be imposed, then trees were again discussed in some detail in subsequent meetings, however this discussion and analysis was omitted from the MND. Similarly, the HLC was concerned over the piecemealing of the Project’s submittals and their review, and in December stated the piecemealed presentations had “become confusing to differentiate what was previously approved and the proposed changes” as the applicant continued to make material changes to designs and Project elements even after conceptual approval. Exhibit 5, December 10 minutes, p. 11 (“The architecture presented is not in substantial conformance to what was given preliminary approval by the Commission.”) Significantly, in November the Commission declared that “[a]cceptance of this report (November HSSR addendum) does not confer the Commission’s acceptance of the current configuration of the utility distribution facility and garage as shown in the drawing.” Exhibit 5, November 12, 2008 minutes, p. 9. The MND cannot and should not accept Historic Landmarks Commission’s review as constituting a robust environmental analysis and comprehensive technical consideration of impact and mitigation measures.

Further, the MND cannot use the Historic Landmarks Commission’s acceptance of reports as a substitute for CEQA’s impact disclosure, informational function, and impact analysis. The MND must disclose its own independent analysis, specifying the baseline conditions, identifying potential impacts, proposing and accepting comment on mitigation measures. The MND improperly summarily refers to the Historic Landmarks Commission’s objections as conclusions. The November 12, 2008 Historic Landmarks Commission action directed the City to perform the kind of analysis an environmental review documents should contain - analyze the condition of the eucalyptus, whether they pose a threat or cannot be protected with the installation of a massive underground structure immediately adjacent to them. If they cannot be preserved, analyze potential substitute trees and other ways to address both the biological and historical values of these trees. The Historic Landmarks Commission directed that additional analysis be undertaken, but the MND converts the direction to a conclusion and simply repeats the Historic Landmarks Commission direction without analysis or deviation. This constitutes improper “sweeping a stubborn problem under a rug,” and thus violates CEQA. *Sutter Sensible Planning v. Board of Supervisors* (1981) 122 Cal. App. 3d 813, 820.

The MND is inadequate in omitting reference to other Historic Landmarks Commission actions, including direction to modify plans that were nevertheless submitted without the required modification and form the basis of the Project at issue. The following Historic Landmarks

Commission hearings, with the attendant directions and actions, must be included in this process: May 14, 2008, May 28, 2008, June 11, 2008, October 29, 2008, November 12, 2008, and December 10, 2008.

b. A Cultural Landscape Study, including Historical Landscape Analysis, Is Required

The MND fails to include a complete historical or cultural landscape analysis. The Department of the Interior has recognized the importance of historical landscapes in historic settings, and Santa Barbara County has required this analysis for the historic Botanic Garden. The El Encanto's historical significance is due, in part, to the landscaping. The 2002 HSSR observed that the site's historic cottages presumably "were oriented in some way to gardens." At p. 7. Although there are various and numerous scattered references to the historic landscaping throughout the 2002 HSSR and in El Encanto Hotel's promotional materials, Exhibit 3, p. 3 Grounds ("The gardens of El Encanto have a rich history with the original design completed by Charles (Cyrus) Frederick Eaton.").

Eaton's design "brought a unifying landscape element" for the cottages and other features on the site. 2002 HSSR, p. 9. Although the 2002 Historic HSSR acknowledges "[a]ll of the resources described herein are located on a wooded and landscaped, 6.7 acre hillside site . . .", page 14, there is no further evaluation of the historic landscape.

A cultural landscape is defined by the U.S. Department of Interior as follows:

*A cultural landscape* is defined as "a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values." There are four general types of cultural landscapes, not mutually exclusive: *historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.*

*Historic landscapes* include residential gardens and community parks, scenic highways, rural communities, institutional grounds, cemeteries, battlefields and zoological gardens. They are composed of a number of character-defining features which, individually or collectively contribute to the landscape's physical appearance as they have evolved over time. In addition to vegetation and topography, cultural landscapes may include water features, such as ponds, streams, and fountains; circulation features, such as roads, paths, steps, and walls; buildings; and furnishings, including fences, benches, lights and sculptural objects.

Most historic properties have a cultural landscape component that is integral to the significance of the resource. Imagine a residential district without sidewalks, lawns and trees or a plantation with buildings but no adjacent lands. A historic property consists of all its cultural resources--landscapes, buildings, archeological sites and collections. In some cultural landscapes, there may be a total absence of buildings.

Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, Charles A. Birnbaum, ASLA, reported in 36 Preservation Briefs, National Parks Service, Technical Preservation Services, <http://www.nps.gov/history/hps/TPS/briefs/brief36.htm>, attached as Exhibit 6.

The Cultural Landscape Foundation, <http://www.tclf.org/>, offers a similar definition:

“A cultural landscape is a geographic area that includes cultural and natural resources associated with an historic event, activity, person, or group of people. Cultural landscapes can range from thousands of acres of rural land to homesteads with small front yards. They can be man-made expressions of visual and spatial relationships that include grand estates, farmlands, public gardens and parks, college campuses, cemeteries, scenic highways, and industrial sites. Cultural landscapes are works of art, texts and narratives of cultures, and expressions of regional identity. They also exist in relationship to their ecological contexts.”

It is evident that the El Encanto hotel site has substantial value and significance as a cultural and historic landscape, since the hotel's landscaping was a central element of the site's features, experience and value for its early guests, it was designed by a noteworthy landscape architect, it included well-defined elements including trail surfacing, ponds and fountains, the rockery, and specific plantings for spaces in both the interior and exterior of the site. The 2002 HSSR concludes that the landscape elements, including the pergola, pond, rockery, and wishing well “have a high degree of integrity and therefore appear eligible for designation as Landmarks.” 2002 HSSR p. 58. The site's association with landscape architect Eaton renders it eligible for listing on the California Register of Historic Places, id., and on the National Register of Historic Places. Id., p. 59; Exhibit 13, Phase I Historical Structure Report, El Encanto Hotel, Christy Johnson McAvoy, Historic Resources Group, February 23, 1990, p. 12. As such, it is a part of the site with cultural significance as defined by Guidelines § 15064.5(a)(3). Compare with § 15064.5(a)(4) (authorizing determination of historical even if eligibility for state or local registries is not established - here eligibility has been established, so the Guidelines plainly contemplate that the site meets the first criteria of historically significant).

The Project will cause a substantial adverse change in the significance of the cultural landscape, as the Project proposes further modifications to the grounds, including alteration and demolition of portions of the cultural landscape. Guidelines § 15064.5(b)(2). Past phases of the project,

including the relocation of Cottages 17-19 and various other portions of the historic site, will have a cumulative impact when combined with the impacts from the immediate Project. Under these circumstances, CEQA mandates a finding of significant individual and cumulative Project impact and thus preparation of an EIR. Public Resources Code § 21084.1; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal. App. 4<sup>th</sup> 896, 904. An EIR can only be avoided if the impacts to cultural landscape features can be mitigated to a point of insignificance, however this cannot be determined in the absence of a cultural resource report.

The County of Santa Barbara recently required a historical resources report specifically addressing cultural landscape values present at the Santa Barbara Botanic Garden. See Exhibit 10, Technical Report: Historic/Cultural Resources Assessment, Santa Barbara Botanic Garden, Santa Barbara, California, Prepared by: Historic Resources Group, LLC, 1728 Whitley Avenue, Hollywood, CA 90028-4809, August 26, 2008.

Similarly, the San Francisco Transportation Authority recognized the existence of a cultural landscape in the CEQA evaluation of the Doyle Drive Project. See Exhibit 11, Chapter 4, EIS/R, Doyle Drive Project, September 2008, p. 4-5 ("there would be impacts to the cultural landscape of the Presidio [National Historic Landmark District] due to the alteration or removal of existing cultural landscape features and the addition of new non-historic features into the cultural landscape.").

The City of San Luis Obispo updated its CEQA Guidelines and expressly recognized cultural landscapes as historical resources that must be recognized and considered in environmental review documents. Exhibit 12, City of San Luis Obispo, Cultural Heritage Committee Staff Report, July 28, 2008, p.4 ("Need to define the term 'Cultural Landscape.'").

The City must direct the preparation of a cultural landscape report for this site to fulfill CEQA's basic objectives of identifying resources, disclosing, preserving resources, and informing the public and decisionmakers about the environmental consequences of their actions. The El Encanto Hotel site contains a cultural landscape, and the project will cause alteration and destruction of some of its elements. Proceeding without evaluating this resource will result in the needless and uninformed destruction of irreplaceable City historic resources.

#### c. Cumulative Historic Impacts to Northwest Corner

In addition to the cumulative impact issues previously identified, the MND fails to address the cumulative historical effects that have been visited upon the northwest corner of the site, and that will be exacerbated by the addition of the utility distribution facility, Valet Parking Structure and operations facility. The November 2008 HSSR Addendum acknowledges that "The original setting of the northwest corner included the three Craftsman cottages and their eucalyptus landscaping. This setting was somewhat compromised by the addition of the paved parking lot."

Id., p. 14. The HSSR proceeds to review the relocation of the three cottages (17-19) and the removal of the eucalyptus trees, leading to a conclusion that what remains in this area “is not a historic feature or space,” and therefore introducing the utility distribution facility, Valet Parking Structure and operations facility does not change “any distinctive spaces at El Encanto.” Id.

While this analysis purports to address the Secretary of the Interior’s first criteria, it does not because the analysis ignores the Criteria’s requirement that the area either be used “as it was historically, or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.” Id., p. 6, citing “The Secretary of the [Interior’s] Standards.” The November HSSR Addendum abandons the previous features and space of the area and essentially declares the area inert once the trees and cottages are gone, however that fails to reconcile how the new use - the utility distribution facility, Valet Parking Structure and operations facility - requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

At the very least, this discordance must be examined as a cumulative impact. The prior project had the effect of destroying the character of the northwest corner, which had previously been a quiet, wooded and landscaped residential area populated with Craftsman cottages. No environmental review was done, and now the current project proposes a major industrial use representing a complete change to the area’s distinctive materials, features, spaces, and spatial relationships. This is a singular adverse effect that is “cumulatively considerable” as defined at Guidelines § 15064(h)(1) since it required first the relocation of historic structures and removal of historic landscaping to convert a portion of the property that formerly had robust and significant historic features, distinctive materials, and spaces into a place where new uses can occur without creating a perceived historical impact. Taken together, the change from the previous condition to the proposed condition is cumulatively significant and must be recognized as a significant impact.

#### D. Cumulative Tree, Fire and Public Safety Impacts

The Project proposes to remove a number of large trees from the site, and others not slated for removal may be damaged by construction or otherwise require removal. A considerable number of other important trees have already been removed from the site. November 12, 2008 HSSR Addendum. (“Over the years, many if the eucalyptus trees on the El Encanto property have been removed because of disease or remodeling. The 2004 entitlement plan approved removal of five of the ten trees along Alvarado Place because these trees as (sic) diseased.”) Id., p. 3-4.

There can be no question that the remaining eucalyptus trees have outgrown the site, have been topped and trimmed to the point of imbalance, and lean precariously out over the road. Eucalyptus trees are highly flammable, and particularly hazardous in areas prone to wildfire, including the Project site. Exhibit 9, City Wildland Fire Plan, p.18. (“The potential fire behavior in this [foothill] zone is considered high to extreme depending on weather and fuel conditions. . .

. The eucalyptus groves within this area are extensive, dense, and have significant accumulations of dead fuel that threaten the areas surrounding them.”) Eucalyptus is listed as an undesirable plant by the City. *Id.*, Appendix E, p.27. Many residents living near the El Encanto Hotel, including those represented by this office, support the removal of the eucalyptus trees on the El Encanto Hotel site that border public roads because their precarious positions and questionable condition pose unacceptable risks to public safety from fire and from falling, including the effect of blocking evacuation routes.

Nevertheless, the environmental review document must identify the trees that are likely to be removed by the Project by considering the Arborist’s conclusions as part of the environmental review documents (identifying what trees must be removed) and considering the cumulative effect of the loss of trees from past remodeling (referenced in November 12, 2008 HSSR Addendum, p. 18). The environmental review document cannot simply defer to a vague aspirational standard articulated by the Historic Landmarks Commission and promise future study of the issue, but must actually consider the quality and condition of the trees as part of the environmental review document, circulate the draft environmental review document to the City Fire Department for consultation, and select the appropriate course of action, considering alternatives and appropriate mitigation. The MND fails utterly in this analysis, leaving the public and decisionmakers without relevant environmental and other information addressing the efficacy and feasibility of mitigation measures<sup>3</sup> that is necessary to make an informed judgment.

#### E. Drainage

City improperly narrowed evaluation of the effect of reasonable storm events on the property. The Project involves increasing the amount of impermeable surfaces, and the City customarily requires modeling of 25 and 100 year storm events. See Drainage analysis for 930 Miramonte, at [http://www.santabarbaraca.gov/Resident/Environmental\\_Documents/930 Miramonte Drive/](http://www.santabarbaraca.gov/Resident/Environmental_Documents/930_Miramonte_Drive/)). Although the MND states increased runoff from a 25 year storm should be retained on site, the hydrological study uses a 1” per 24 hour storm event. Given orographic precipitation enhancement on south-facing Riviera slopes, it is common to receive much higher rates of rainfall. See Exhibit 20, Preliminary Stormwater Study for Multi-house residential project, 226, 228, 232 and 234 Eucalyptus Hill Road, July 2006 (finding 25 year events generate 2.9 inches per hour and 100 year event 3.7 inches per hour). At p. 3. The MND is grossly deficient in relying on a rainfall rate of 1 inch per 24 hours.

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<sup>3</sup> While the Historic Landmarks Commission urged that the eucalyptus trees be saved if possible, they did not consider whether, if the trees were removed for whatever purposes, the historical impacts could be mitigated, such as through documentation in the form of an interpretative display describing the historical role of eucalyptus trees on the Riviera (Exhibit 13) and explaining how fire resistant trees are now required due to increased population, climate change, and increased wildfire risks.

Whatever retention devices are considered must conform to the Covenants, Conditions and Restrictions A.1, Exhibit 4, requiring uninterrupted water flow.

F. Land Use Incompatibility

The MND completely omits a central category of Project impacts associated with the existence of incompatible land uses. See Appendix G of the CEQA Guidelines, § IX, Land Use And Planning. Environmental Checklist, upon which the City's Environmental Checklist is presumably patterned. Omitting an entire class of potential impacts renders the MND inadequate.

- a. Controversy over impacts to surrounding neighborhood justifies environmental impact report

The City cannot claim to be unaware of the concerns of the residents living near the Project site that the applicant's desire to move the "back of house" operations from the northeast corner to the northwest corner of the parcel is very controversial. These residents appealed the Planning Commission's July 2008 approval of the utility distribution facility to the City Council, which led the applicant to withdraw that application and pursue the Phase II changes using the instant Negative Declaration. These residents have identified themselves to City Planning staff and participated in numerous meetings with Planning staff and City managers to explain their concerns. They have appeared at Historic Landmarks Commission meetings, pored through City planning files, and persistently articulated their concerns that the Project posed incompatible land uses adjacent to their residences. It is incomprehensible that the City would ignore their central concerns in the preparation, internal review and approval of the instant Mitigated Negative Declaration.

Nevertheless, this letter shall serve to put the City on notice of substantial community controversy over the proposed project, and specifically whether the applicant and City have properly identified, considered the substantial effect that the proposed Project will have on adjoining properties and the nearby neighborhood, particularly around the northwest corner of the site.

Authors of the Guide to CEQA, 11<sup>th</sup> Ed., observe that the Courts "have been looking with an increasingly skeptical eye at Negative Declarations and Mitigated Negative Declarations, especially in the context of controversial projects." P. 255. The El Encanto Hotel qualifies as a controversial project, and one where the Mitigated Negative Declaration has numerous gaps and flaws which plainly justify preparation of an environmental impact report. Given the controversy, this is particularly true.

b. Conflict with applicable land use plans - zoning ordinance

Guidelines Appendix G establishes that a project that conflicts with an applicable General Plan, zoning ordinance or other plan or policy adopted for the purpose of avoiding or mitigating a significant impacts will constitute a significant impact triggering the need for an environmental impact report. See also *Pocket Protectors*, *supra*, 124 Cal. App. 4<sup>th</sup> 903.

The zoning for the site, R-H Resort-Residential Hotel Zone states:

The purpose of the R-H Zone is to provide for the highly specialized uses that are associated with the development and operation of resort-residential hotels and to **insure the least possible conflict with or disturbance of the amenities attached to and associated with adjoining residential areas.**

S.B.M.C. § 28.27.005 (emphasis added) (attached as Exhibit 14).

Substantial evidence supporting a fair argument that the Project fails to conform to the requirements of the R-H Zone triggers the need for an EIR. *Pocket Protectors*, *supra*, 124 Cal. App. 4<sup>th</sup> at 930. The neighbors residing in adjoining residential areas have identified a series of conflicts between their enjoyment of their properties and the Hotel's Project based on the relocation of the "back of house" functions from the northeast corner of the property into the northwest corner. Disturbances and conflict with quiet enjoyment of adjoining properties' amenities is created by proposed increases in noise from mechanical equipment, increased traffic and operations, and noise, light, and disturbance associated therewith, including valet parking traffic on Mission Ridge Road; the loss of buffer areas from modifications reducing setbacks; new buildings visible from adjoining residences; loss of screening landscaping; incremental and immediate demolition of historical structures and degradation of historical features; and construction noise. Substantial evidence of such conflicts is presented in the testimony of Mr. Ken Doud, visual impact expert, and Matthew McDuffee, acoustical engineer, and in these comments and the materials attached hereto, the appeal filed to the Planning Commission, the comments and submittals provided to the Historic Landmarks Commission and comments by the Historic Landmarks Commission members themselves and in the comments presented to the City by adjoining and nearby residents.

Locating all "back of house" functions in one corner of the property, and situating those functions immediately next to the property line, does not comport with an obligation to "insure the least possible conflict with or disturbance of the amenities attached to and associated with adjoining residential areas." S.B.M.C. § 28.27.005. This code section is clearly intended to protect the adjoining residential areas from the Hotel's impacts. The City has not observed, or even recognized it seems, its obligations to "insure the least possible conflict" with adjoining residences. Insure connotes a mandatory obligation which the City has not honored. "Least possible conflict" requires an examination of means to avoid the conflicts, such as might come

from an alternatives analysis or a detailed study of means to first best avoid conflicts, and if that is clearly impossible, then to reduce and then mitigate conflicts. The City has undertaken no such analysis nor has this obligation entered into the land use permitting process to date. This failure represents a potentially significant land use compatibility impact that has been ignored in the Mitigated Negative Declaration.

c. Conflict with Building Regulations

Chapter 28.27 establishes mandatory setbacks separating all buildings and structures from property lines. SBMC § 28.27.050. In no case may the setback be less than 30 feet, nor less than the height of the building. These regulations are clearly intended by the zoning ordinance to protect adjoining residents from the intrusion and conflicts by providing a buffer between hotel buildings and surrounding residential land uses.

The reduction of setbacks and decrease in the width of mandatory regulatory buffers between the two incompatible land uses constitutes the type of conflict identified in Appendix G. A decision to reduce the setbacks and buffers below the minimum standards reflected in the zoning ordinance is a significant impact that must be addressed in an environmental impact report. *Pocket Protectors, supra*, 124 Cal. App. 4<sup>th</sup> at 929-930.

d. Conflict with use restrictions - Covenants, Conditions and Restrictions

El Encanto Hotel recorded a Declaration of Covenants, Conditions and Restrictions on the entire parcel in 2006 that imposed certain limitations on use of the land which, like the zoning ordinance, constituted a form of regulation of the use of the land adopted for the purpose of avoiding and reducing environmental effects. Appendix G, § IX; Exhibit 4. The Covenants, Conditions and Restrictions recite that that they were imposed to benefit the public as conditions of Planning Commission approval.

Specifically, the Covenants, Conditions and Restrictions limit allowed development on the site by limiting the total cottages and total square feet of new development to 8,010 square feet. Covenants, Conditions and Restriction A.3. Allowed Development. The Project now proposes development substantially in excess of the total amount permitted by the Covenants, Conditions and Restrictions and thus conflicts with a regulation adopted for the purpose of avoiding or mitigating an environmental effect. As a result, the Project is causing a potentially significant impact that must be addressed in an environmental impact report.

e. Other Use Limitations

It is unclear whether the El Encanto Hotel currently operates under a conditional use permit. If so, the conditional use permit must be made publicly available and the conditions of that permit

must be examined and compared to the proposed Project. Any conflict indicates a potential significant impact.

Similarly, the Conditions of the 2004 approval must be made publicly available and compared to the proposed Project. Any conflict indicates a potential significant impact.

f. Pattern and practice

The City's Environmental Checklist form improperly lacks consideration of Land Use and Planning impact issues, including conflicts with policies, zoning ordinances and regulations as detailed above. As a consequence, the City has a pattern and practice of overlooking, ignoring or avoiding the identification and consideration of these issues in all environmental review documents it prepares in systematic violation of CEQA.

G. Quality of Life

CEQA recognizes that Projects may cause aggregated effects on communities and individuals adversely affecting their quality of life. See Exhibit 7, Santa Barbara County CEQA Thresholds, page 117. The Project will cause a significant physical impact to the quality of the human environment for Mission Ridge Road residents from the relocation of the "back of house" functions from the northeast corner to the northwest corner of the site, within setbacks and adjacent to sensitive residential receptors. Project impacts affecting quality of life for Mission Ridge Road residences include: increased traffic (from valet and employee parking traversing from the main entry to the Podium parking structure), traffic noise and traffic-related air pollution; from the installation of heavy industrial equipment in the northwest corner (water boiler, cooling equipment, compressors, washers, dryers, pumps, fans, etc) adding noise, electromagnetic fields, air pollution, light, blocked visual corridors; laundry, light, activity, noise and activity in the operations facility ; and noise, air pollution, safety hazards and lights from the siting of the Valet Parking Structure in the northwest corner of the site. Collectively, these Project impacts will combine to cause a significant adverse physical impact to the quality of life for residents on Mission Ridge Road, in particular those closest to the northwest corner of the Project site. The MND fails to identify this potentially significant impact.

H. Noise

a. Noise impacts a potential significant impact

The Mission Ridge Road neighborhood is typified by quiet and tranquil conditions. The additional of Project noise is likely to cause a substantial increase in the noise levels currently experienced, however the MND is defective from its failure to recognize this as a potential significant impact.

b. Noise study is flawed

The noise study underlying the MND's noise is flawed. Baseline conditions were only monitored for a 15 minute period, improper modeling techniques and software was employed, and categories of emissions were ignored. Exhibit 15. The noisiest part of the Project, the Valet Parking Structures, were not properly modeled, and necessary technical information was omitted from the acoustical study and MND, precluding an informed citizenry. *Id.* The noise reduction equipment proposed for use is ineffective at eliminating certain higher frequencies and may result in harsh, hissing noise emissions. *Id.*

c. Technical comments identified for response

Exhibit 15, a technical peer review of the acoustical study relied on in the MND by Anentech, an experienced acoustic engineering firm, is hereby identified as a separate comment letter that should be responded to in detail.

d. Substantial increase

The acoustical engineer for the applicant stated at the January 8, 2009 Planning Commission hearing on the MND that noise below the regulatory standards in the General Plan can cause significant impacts. We agree, and note that the acoustic study has failed to assure the absence of such significant impacts. Acentech has identified a number of flaws in the acoustical study that establish that the noise impacts were understated and thus the Project has the potential to cause a significant impact.

e. Dispute among experts

CEQA requires preparation of an environmental impact report when there is credible expert testimony that a project may have a significant impact. *City of Livermore v. Local Agency Formation Commission* (1986) 184 Cal. App. 3d 531, 541-542. "Indeed, an EIR is required precisely in order to resolve the dispute among experts." *Guide to CEQA*, 11<sup>th</sup> Ed., p. 262.

I. Solid Waste

The Solid Waste Management Plan is vague and lacks enforceability. Enhanced documentation of waste generation is required, in addition to disposal quantity information.

The environmental review documents must integrate the previous conditions and requirements in Covenants, Conditions and Restrictions A.4 (Exhibit 4) in the solid waste generation and planning process.

#### J. Air quality

The Project involves a considerable amount of earthwork, including transport off site. Emissions of particulate matter air pollution, criteria pollutants and hazardous air pollutants (principally diesel exhaust) must be calculated and disclosed. The residences and the hotel are sensitive receptors, and a Health Risk Assessment for hazardous air pollutants should be performed.

#### K. Fire Hazard

The site is threatened by wildfire, as evidenced by the recent Tea Fire. Cumulative impacts from increased visitation of the facility creates risks to residents using roads in the vicinity of the Project for evacuation. The City Wildland Fire Plan references the need for evacuation planning. The Hotel Emergency Evacuation Plan (Exhibit 4, Covenants, Conditions and Restrictions A.6), must be revised to accommodate new information (e.g., Tea Fire debrief and updated regional emergency and fire response strategies) and included as part of the environmental review document. Without this information, the potential fire risk is potentially significant.

Additionally, the eucalyptus trees leaning over adjacent roads poses a potential threat from ignition or falling and blocking evacuation. Human health and safety risks from these trees is significant and must be examined in an environmental review document.

#### L. Transportation and Parking

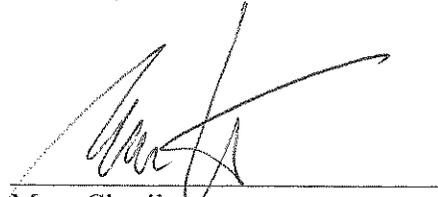
The Project must have more specific and enforceable conditions increasing the effectiveness of the employee transportation program.

Parking is not adequate for large events, such as weddings and conventions, nor is it adequate to accommodate significant numbers of local residents driving to the site to use the restaurant and hotel facilities. A trip generation study is required, as the nature of the amenities on site is changing (Exhibit 3), increasing public usage of the site for the spa and restaurant that promise to be the "buzz of Santa Barbara." Exhibit 3, p.2. On-street parking is generally prohibited, leading to pedestrian safety issues for persons not wishing to use the valet parking. Or when valet parking is full or backed up. Relying simply on the prior number of spaces is an incomplete analysis of parking supply adequacy.

For all these reasons, it is evident that the Negative Declaration cannot be adopted as proposed. At a minimum, CEQA's procedural requirements must be met by posting the notice at the Clerk's office and sending copies to the State Clearinghouse. The City is in possession of substantial evidence supporting a fair argument of a potential significant impact, and based thereon, must commence preparation of an EIR addressing each of the impact areas identified in this letter and in other public comment.

Ms. Kathy Kennedy  
City of Santa Barbara  
January 15, 2009  
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Sincerely,



Marc Chytilo

CC: State Office of Historic Preservation

### Exhibits

- Exhibit 1 Project Chronology, prepared by City of Santa Barbara
- Exhibit 2 City of Santa Barbara Land Use Element, pages 119-121
- Exhibit 3 El Encanto Hotel "Dear Neighbor" promotional material
- Exhibit 4 Declaration of Covenants, Conditions and Restrictions Imposed on Real Property, 1900 Lasuen Road, APN 019-170-022, recorded June 27, 2006
- Exhibit 5 Historic Landmarks Commission Minutes, Excerpts, 1900 Lasuen Road, May 14, 2008, May 28, 2008, June 11, 2008, October 29, 2008, November 12, 2008, December 10, 2008
- Exhibit 6 Protecting Cultural Landscapes, Charles Birnbaum, ASLA, Preservation Briefs, 36, Technical Preservation Series, National Park Service, US Department of the Interior
- Exhibit 7 Santa Barbara County Environmental Thresholds and Guidelines Manual, October 2008, excerpts, page 117 (Quality of Life); (137-141 (Solid Waste); 149-150 (Aesthetics)
- Exhibit 8 Letter, State Office of Historic Preservation to Santa Barbara County Planner Alex Tuttle, re: Santa Barbara Botanic Garden draft environmental impact report, September 19, 2007
- Exhibit 9 City of Santa Barbara Fire Department, Wildland Fire Plan, January 21, 2004, excerpts
- Exhibit 10 Technical Report: Historic/Cultural Resources Assessment, Santa Barbara Botanic Garden, Santa Barbara, California, Prepared by: Historic Resources Group, LLC, 1728 Whitley Avenue, Hollywood, CA 90028-4809, August 26, 2008
- Exhibit 11 San Francisco Transportation Authority, Doyle Drive FEIS/R, Chapter 4, September 2008
- Exhibit 12 City of San Luis Obispo Cultural Heritage Committee Staff Report, July 28, 2008

- Exhibit 13 Phase I Historical Structure Report, El Encanto Hotel, Christy Johnson McAvoy, Historic Resources Group, February 23, 1990
- Exhibit 14 S.B.M.C. § 28.27.005
- Exhibit 15 Acentech review of El Encanto Hotel Acoustical Report, January 14, 2009
- Exhibit 16 Historical Structures/Sites Report, El Encanto Hotel, 1900 Lasuen Road, Santa Barbara, California 93103, APN 19-170-01, prepared by Preservation Planning Associates, December 2002
- Exhibit 17 Emails, City Planning Staff, December 26, 2008
- Exhibit 18 The Riviera, Walker A. Tompkins, Neighborhood Series, No. 3, 1978
- Exhibit 19 Montecito Water District DEIR, Ortega Reservoir Improvement Project, Section 4.2, September 2004
- Exhibit 20 Preliminary Stormwater Study for Multi-house residential project, 226, 228, 232 and 234 Eucalyptus Hill Road, July 2006
- Exhibit 21 Videoscapes comment letter, January 15, 2006

## PROJECT CHRONOLOGY – EL ENCANTO HOTEL

**Master Plan (MST99-00305)** The addition of five new cottages containing nine new keys (guest rooms) totaling 5,759 square feet, a 2,251 square foot expansion and remodel of the main hotel building, the onsite relocation of three historic cottages, the exterior alteration of four cottages, the interior renovation of all existing buildings, the reconfiguration of the parking areas, the removal of the tennis court and other site improvements.

- 01/08/03 - Historic Structures/Sites Report Accepted by HLC (Master Plan)
- 10/13/04 - Addendum to Historic Structures/Sites Report Accepted by HLC (accessible paths, sidewalk)
- 12/09/04 - Planning Commission approval of Master Plan (PC Resolution 057-04)
- 12/20/04 - Appeal of PC decision filed by Riviera Association
- 05/12/05 - Planning Commission discussion, narrowing of Alvarado Place (PC Resolution 037-05)
- 05/31/05 - Appeal withdrawn

### **Master Plan divided into Phase I and Phase II:**

#### **Phase I of Master Plan. Cottages 11, 14, 15 & 16**

- 08/03/05 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottages 11, 14, 15, & 16)
- 02/15/06 - Building permits issued for Cottages 11, 14, 15 & 16
- 06/28/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 15 & 16)
- 07/26/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 11)
- 08/09/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 16)
- 10/19/06 - PC Lunch Meeting, discussion to refer Modification request from PC to SHO
- 12/06/06 - Staff Hearing Officer Approval (SHO Resolution 086-06), Modification to allow interior yard encroachment for Cottage 11
- 01/03/07 - Building permit issued for Cottages 11
- 01/16/07 - Building permit issued for Cottages 14 & 16

**Phase II of Master Plan (MST2005-00490).** Expansion of the main building (Building 1), Cottages 2-10, 13, 17-21 & 25-29, new landscaping, parking improvements, relocation of the swimming pool, historic arbor.

#### **Main Building (Building 1).**

- 12/14/05 - Addendum to Historic Structures/Sites Report Accepted by HLC (Demolition and reconstruction of Main Building)
- 06/14/06 - Substantial Conformance Determination request to increase basement of Main Building
- 06/15/06 - PC Lunch Meeting, discussion to transfer sq. ft. from Cottages 27 & 28 to main Building, resulting in Cottages 27 & 28 no longer having approval
- 10/04/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Demo. of swimming pool)
- 10/12/06 - Building permit issued for demolition of Main Building and swimming pool
- 12/13/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Main Building)
- 12/27/06 - Substantial Conformance Determination request for increase in height of Main Building
- 01/18/07 - PC Lunch Meeting, discussion regarding increase in height of Main Building
- 03/29/07 - Substantial Conformance Determination by Staff
- 05/21/07 - Building permit issued for excavation, shoring, grading for Main Building
- 06/15/07 - Building permit issued for Main Building
- 06/27/07 - Addendum to Historic Structures/Sites Report Accepted by HLC (Main Building)
- Pending - Building permit for Tenant Improvement for spa in Main building

**Cottages 2-10, 13, 17-21 & 25-29, other site improvements.**

- 11/09/05 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 2)
- 02/08/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottages 20 & 21)
- 02/08/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottages 5-9, 10 & 13)
- 04/19/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 3)
- 05/17/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 17, 18 & 19)
- 08/23/06 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 4, 25, 26 & 29)
- 04/18/07 - Addendum to Historic Structures/Sites Report Accepted by HLC (Master Site Landscape Plan pathways)
- 04/23/07 - Building permits issued for Cottages 3, 5-10, 13, 17-21, 25 & 26
- 04/30/07 - Building permit issued for Cottage 2
- 08/28/07 - Substantial Conformance Determination request for grading of pool and fitness center
- 09/06/07 - PC Lunch Meeting, Substantial Conformance Determination discussion regarding grading
- 11/01/07 - Grading permit issued for swimming pool and fitness center

**Cottage 4. Demolition and reconstruction**

- 12/19/06 - Substantial Conformance Determination request for demolition & reconstruction
- 04/20/07 - Substantial Conformance Determination by Staff
- 01/29/08 - Building permit issued for Cottage 4

Pending – Building permit for Master Civil Site Improvements, grading, utilities

**Cottage 12. Demolition and reconstruction (MST2007-00296)**

- 08/08/07 - Preliminary HLC Approval
- 05/14/08 - Addendum to Historic Structures/Sites Report Accepted by HLC (Cottage 12)
- 08/27/08 - Substantial Conformance Determination request
- 06/09/08 - Substantial Conformance Determination by Staff
- 06/11/08 - Demolition permit issued
- Pending - Final HLC approval and building permit for new Cottage 12

**Cottages 22, 23 & 24. Demolition (MST2008-00211)**

- 06/11/08 - Final HLC approval
- 07/08/08 - Demolition permit issued

**Revised Master Plan (MST2007-00140)** Proposal includes 1) a new pool with fitness center below; 2) new Cottages 27 and 28, which were previously approved and eliminated; 3) Central Plant/Operations Facility located below a new surface parking lot in the northwest corner of the lot; and 4) Mission Village (5 new cottages with valet parking garage below) in the northeast corner of the project site.

- 03/28/08 - DART submittal for Revised Master Plan
- 06/05/08 - PC Lunch Meeting, discussion regarding Central Plant to be Phase One of Revised Master Plan, remainder to be Phase Two of Revised Master Plan

**Phase One of Revised Master Plan (MST2008-00328)** Central Plant, approximately 2,364 square feet, located predominantly underground in the northwest corner of the project site.

- 07/03/08 - DART submittal for Phase One of Revised Master Plan

ocean side of Cabrillo. The varied needs of parkers in the area between State Street and the Harbor presently conflict, and need to be studied as part of an overall shoreline plan already recommended in the General Plan.

Night views from Cabrillo Boulevard are also treasured as scenic resources by residents and visitors alike, and should be protected. If Cabrillo Boulevard is realigned, the street lighting installed should be more traditional. Lighting standards in keeping with the image of the City should replace those existing, which now lend a "freeway" feeling to the drive.

Finally, Senate Bill 1467 states that the Department of Transportation shall give special attention to the highway's visual appearance. Therefore, in addition to improved planning and design standards, a scenic highway designation ensures that Cabrillo Boulevard will receive a superior maintenance program.

### **SYCAMORE CANYON ROAD**

Sycamore Canyon Road (144) from Alameda Padre Serra to Stanwood Drive (192). Stanwood Drive to Mission Ridge Road (192) where it intersects with Mountain Drive. Mountain Drive (leaving 192 which continues on Foothill Road) to the Old Mission on Los Olivos Street.

#### **Description**

Sycamore Canyon Road begins heading north at Alameda Padre Serra, curving through a residential area that slopes up on either side of the canyon. In the far distance is a view of the Santa Ynez Mountains. Further into Sycamore Canyon, the landscape becomes more natural, revealing open grassy hillsides. Eucalyptus, evergreen, and sycamore trees border the road. Adjacent, to the west, is Sycamore Creek which is often hidden by dense shrubbery.

Turning left on Stanwood Drive, the road is bounded by dense, natural vegetation as it twists and winds slowly upward through the canyon. Rock outcroppings appear and residences can occasionally be seen. At the top of a rise, Stanwood Drive opens onto rocky fields where horses graze. Beyond is a beautiful broad span of the Santa Ynez Mountains.

On Mission Ridge Road, going west, the foothills dotted with houses are visible below the mountains. Sheffield Reservoir lies just off the road to the north. Further on Mission Ridge Road, residences can be seen closer to the roadway. Mountain Drive, with dense vegetation to one side and an old stone wall to the other, snakes down toward the Santa Barbara Mission. In the foreground, the towers of St. Anthony can be seen. Turning onto Los Olivos Street, the historic Mission appears on the right while open lawns spread before the Mission on the left.

#### **Land Use Controls**

In contrast to the potential urban scenic highway described above, the combination of Sycamore Canyon Road, Stanwood Drive, Mission Ridge Road, and Mountain Drive runs primarily through rural residential areas of extraordinary scenic value, which should be protected and enhanced for the residents of Santa Barbara as a semi-rural scenic highway. In addition, this route has historic significance because it passes by preserved remnants of an Indian water system and terminates at the Santa Barbara Mission.

Existing land use regulations are consistent with the policies of the General Plan, and are now in effect over this entire corridor. A portion of this potential scenic highway is within the designated hillside open space described in the open space element of the General Plan, and most of the adjacent lands have been appropriately rezoned to the lowest residential density allowable at the present time. However, more restrictive measures are necessary to preserve the scenic qualities of this highway corridor. For example, the City presently has a subdivision ordinance, but more specific land development control is desirable. Site plan and architectural control should be established in regard to the construction of single-family dwellings and specific subdivision design standards should be developed. In addition, it is necessary to establish a method for the control of the removal of trees on public property in rural areas, particularly within the scenic highway corridors. In order to achieve such control, it is recommended that a tree preservation ordinance be adopted. At the present time, public sentiment for tree preservation bespeaks a need for an ordinance which would provide protection throughout the City. Through creation of such mechanisms, the natural beauty of the hillsides through which the scenic highway corridor passes will be protected and preserved.

Improper grading has occurred in the past within this scenic highway corridor. An example of its effects is visible from Sycamore Canyon Road, below the Conejo Road subdivision, where debris is crumbling down the steep slope of the hillside to Sycamore Creek. This situation should be remedied. A grading plan is now required as part of the subdivision ordinance, and as a result of the recent council action, must now be approved by the Architectural Board of Review as well as the Director of Public Works. The Architectural Board of Review, acting as a grading review board, and the newly adopted grading ordinance (June 25, 1974) are concerned with the development of single-family lots as well as subdivisions. Both will help prevent any type of improper residential development of these hillsides.

The setback requirements for the low-density residential zones found in these designated hillside open spaces is presently set at 35 feet. In order not to obstruct important scenic views of the hillsides and the mountains beyond, it is recommended that setback requirements be regulated through the previously mentioned site plan and review.

Finally, the most blighting influence on this potential scenic highway is the overhead wiring which abounds throughout the route. The General Plan recommends an increased tempo for underground conversions with an ultimate goal of complete underground utilities for Santa Barbara within this century. By resolution of the City Council in 1967, the entire City is subject to the undergrounding of new construction. In addition, the State requires generally that any wiring installed after December 1972, visible from a scenic highway, must be placed underground. There is no State requirement to underground utilities installed before 1972, but the State has determined that utility companies must set aside funds and formulate a program of utility conversion. The priority of areas in need of conversion is determined by each local jurisdiction in cooperation with the public utility involved. Although there are many areas of Santa Barbara in need of conversion, the removal of the overhead wires presently found in this highway corridor through a conversion program would greatly enhance this scenic route for the enjoyment of all the residents of Santa Barbara. When a scenic highway designation has been acquired for this route, the Council may decide to request that the overhead utilities be undergrounded.

### **Planning, Design, and Maintenance Standards**

The essence of this highway as a scenic route is its exposure to quiet hillsides, mountainous terrain, natural vegetation, and beautiful views available in Santa Barbara's foothills. Through improved planning, design, and maintenance, this exposure can be protected.

Many residents enjoy these roads not only for automobile driving, but also for hiking, riding bicycles, and riding horses. The highway right-of-way is narrow at several locations along the route and ample room is not now available for all the present uses. Because the Department of Transportation is required to consider the concept of a "complete highway" in its planning and design for a scenic highway, it must incorporate plans for safety, economy, and utility, as well as beauty. Therefore, the needs of bicyclists and equestrians will be considered by the DOT and the location of bikeways and riding trails will be an important element in the design standards created for this scenic route.

The combination of Sycamore Canyon Road, Stanwood Drive, Mission Ridge Road, and Mountain Drive should not be considered an expedient route to get from one place in the City to another. The scenic quality of this drive results in part from the slow and winding terrain that the highway corridor traverses. Major changes in the present route alignment could detract from this scenic quality. The designation of this route as a scenic highway can protect the qualities of the route against inappropriate realignment, widening, or improvement.

### **Potential City Scenic Routes**

Instead of acquiring a State scenic highway designation for a particular road, Santa Barbara can create a city scenic route designation which would protect the appearance of any selected highway corridor or street corridor through adopted land use controls. In regard to a State highway, however, it should be noted that such a city designation would have little impact on the highway within the corridor, or on the planning, design, and maintenance standards of the State Department of Transportation. At the present time, only one scenic city street should appropriately be considered for this program. In the future, it may be determined that there are other streets that might also benefit.

### **SHORELINE DRIVE FROM CASTILLO STREET TO THE END OF SHORELINE PARK**

Shoreline Drive, when considered in combination with Cabrillo Boulevard, meets State Standards for a scenic highway designation. However, because of the fear that increased traffic might result from a State designation, it is recommended instead that Shoreline Drive be preserved and enhanced through a City scenic route designation.

#### **Land Use Controls**

Beginning at Castillo Street, Shoreline Drive curves past the harbor to the south. Two parcels of land adjacent to Shoreline Drive and west of the City Plunge are now vacant. Both need to be properly landscaped to minimize the visual impact of the expanded harbor parking now being proposed in the current Harbor Improvement Plan. In addition, existing parking areas on the north side of Shoreline Drive in the vicinity of City College should also be landscaped so that they do not detract from the view.

Passing by City College, Shoreline Drive rises onto the Mesa offering another beautiful panorama of the Santa Barbara Channel beyond the lawns of Shoreline Park. The speed limit in this area of Shoreline Drive at the present time is 30 miles per hour. Although average daily traffic counts demonstrate that 30 miles per hour is an appropriate speed, the scenic aspects of the route may require a slower speed limit in order for drivers and pedestrians to properly enjoy another of Santa Barbara's scenic resources in safety.