



August 3, 2022 draft

Zeb Navarro, City Clerk  
City of Oceanside  
300 N. Coast Highway  
Oceanside, CA 92054  
Hand Delivered

Subject: Appeal of Planning Commission Decision on Ocean Kamp

Dear Mr. Navarro

We hereby appeal the decision of the Oceanside Planning Commission on July 25, 2022 to approve the Tentative Map, Development Plan and Conditional Use Permit, and to certify the associated SEIR for the Ocean Kamp project. This appeal is filed in accordance with the provisions of Section 4604 of the Oceanside Zoning Ordinance. Attached is the appeal form and a petition with original signatures of residents of the noticed area for this project.

Our appeal includes all of the following concerns:

#### I. Impact on Economic Sustainability

This project failed to evaluate the Jobs/Housing ratio. The City of Oceanside Jobs/Housing Balance Report for April 2021 shows Oceanside to have the lowest Jobs/Housing ratio in north county and one of the lowest ratios in San Diego County overall. This project reduces the number of jobs and adds 700 housing units while the Pavillions project would have been 100% job producing. The developer's economic analysis failed to consider the overall impacts of this change on the long-term economic sustainability and instead just focused on the shorter term (10 years) comparison of the proposed project with the previously approved Pavillions project. If the previously approved project was financially feasible one could conclude it would have been built. Comparing this project to one that is not viable does not ensure economic sustainability.

Furthermore, this hotel is being proposed at a time when one was recently entitled (Hilton on El Corazon) and then withdrew, another on El Corazon has not proceeded after over three years of negotiations, and three, known as the Inns at Buena Vista Creek, are still awaiting final permits. There is only so much hotel demand. The viability of this hotel and its impacts on other hotels in Oceanside, two on city owned land, should have been considered.

#### II. Water Supply

The project proposes to use excessive amounts of water at a time when our region is again facing water restrictions. The analysis of water supply per CEQA does not evaluate the public choice

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about how to use its water, just if there are plans in place for water supply that can meet the demand for water- that is a pretty low bar. Our water rates for residents are increasing to cover the infrastructure costs for increasing our supply and reducing our reliance on imported water. Common sense would say we need all new water users to build into project design a level of conservation that protects this resource for future residents- this project does not.

### III. Public Safety Issues Associated with the Airport

Of course, there are basic regulations in place to limit building height, specify flight paths and monitor noise profiles associated with the nearby airport. But there are still risks which became all too evident with the recent plane crash right on the site of this project- the second in less than four months. Furthermore, there are increasing reports about Air Quality impacts from lead in airplane fuel- particularly to children who live near airports. The analysis of Air Quality Impacts is required to consider lead. But per Appendix J did not appear to even specifically measure this pollutant in the project vicinity, or consider the potential cumulative impacts, shouldn't to public safety of adding so many residential units near this airport.

### IV. Inappropriate use of the earlier Pavillions Project EIR

The City should not be relying, in part, on a certified EIR from the Pavillions Project that was approved in 2008. It is not appropriate to use a SEIR for this project due to substantial changes that were made. CEQA Guidelines Section §15163 states that SEIR may be prepared if “only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.” There were not just minor changes made to the original project that was approved for this site- it is a completely different project and should have required a completely new EIR. Further details of this are included in comment letter from Everett Delano dated July 25, 2022 to the Planning Commission and in comment letter J from SEED.

One area of particular concern is the impact on Biological Resources. This is discussed on pages 5.1.6-9 in the FSEIR that concludes impacts were all addressed by inclusion of the Science Review Panel recommendations and selection of the Reduced Project and no further analysis is required. However, the details of this Science Review Pael were not provided so it is not possible to review the adequacy of that conclusion. Furthermore, this conclusion assumed that the draft SAP would continue to be used as the guidance document for project impacts in Oceanside and that would ensure there are no cumulative impacts. However, the draft SAP has not been implemented as planned, and there have been numerous additional impacts to Biological Resources, many of them along the San Luis Rey River that impact this project. Several of these potential impacts such as edge effects have already been commented on by others so we will not duplicate these comments here, but incorporate them by reference.

There were also substantial changes to Transportation that make the Pavillions EIR inappropriate to use. The Pavillions Project projected over 32k ADT. This project assumed there were no adverse traffic impacts because it will result in substantially fewer trips- slightly over 19k/day. But this fails to consider that the Pavillions project assumed that SR76 (Section 4.5.1.1) would be expanded to 6 lanes each direction. Fourteen years later it remains at 4 lanes and there are no such plans for expansion. The impact of this and numerous other roadway changes was not considered.

#### IV. Noncompliance with numerous provisions of the Climate Action Plan (CAP)

The city has failed to comply with many provisions of the Climate Action Plan. This project is using CAP compliance as part of its assumed claim that there are no direct or cumulative GHG impacts. However, that assumes the CAP is being implemented as planned. Failure to do so means the CAP cannot demonstrate reduction of GHG sufficient to meet state reduction targets. The DSEIR does not disclose potentially significant impacts from GHG Emissions. The DSEIR concludes that the Project would not generate GHG emissions that may have a significant impact on the environment because the “Project’s operational GHG emissions would be approximately 3.0 MT CO<sub>2</sub>e per service population per year, which would be below the 2025 City threshold of 3.5 MT CO<sub>2</sub>e per service population per year (DSEIR at 5.1-13). According to information from SD SEED (p.43 Comment letter with submission of expert report) the DSEIR’s quantitative GHG analysis is unsubstantiated because “several of the values inputted into the model are not consistent with information disclosed in the DSEIR.”

The projects VMT per capita for residential use exceeds the significance threshold of 14.96 VMY per resident and is therefore is recognized as a significant impact on the DSEIR.

#### V. The SEIR does not provide an Accurate and Complete Project Description

The project description is not adequate under CEQA requirement which does not allow for a proper assessment of the project’s technical, economic nor environmental characteristics. SD SEED points out two critical deficiencies in the Project Description. (1) Critical details about the proposed residential use for the Project are improperly omitted. (2) The Project timelines for construction activities are unclear and baseless. (SD SEED comment letter p.17).

#### VI. Numerous areas where the project failed to do adequate analysis and/or mitigation for significant adverse impacts.

The following are a few examples of those:

Fire response – This evaluation identified current fire response time in section 4.4 as the 90<sup>th</sup> percentile in excess of 7:17 minutes. It also references the General plan performance standard for fire response as 5 minutes. While the project fails to meet the performance standard it concludes because it met the standard in the pavillions EIR that there are no impacts. It further notes that many of the fire facilities near the project are already above the “high workload” classification,

yet concludes there is no impact because no new fire facility was proposed. The threshold of significance is response time., not was a new facility proposed. The standard is not met prior to building the project. Adding the project will only exacerbate this adverse impact.

Furthermore, commenter D-3 asked “What is the plan to evacuate these residences in the event of a wildfire.?” The response failed to address the adequacy of the access road network or address the time that it would take to safely evacuate. This potential impact has not been addressed.

Water Supply – The Oceans Kamp Water Supply Study dated 12/21/20 specifically states it has excluded water used for irrigation and for fire sprinkler systems from the study, partially because it would be “premature.” It is unknown how much water will be needed for these two required uses so there is no basis for the conclusion that supply is sufficient. Table 1 on page 6 of this study shows projected water demand from various land uses with the project. The evaporation and waste water from backflushing of filters on the wave pool are projected to use 25,000 gallons of water per day. The applicant stated at the Planning Commission hearing that the water use from the wave lagoon is about the same as that for one hole on a golf course. No data was provided to back that up, nor is there any indication of efforts to reduce water demand in light of current drought restrictions in this region. Other proposed hotels like the Hilton on El Corazon included substantial commitments to improve sustainability- including reduced water and energy use.

Transportation – The VMT analysis identified excess GHG emission that require mitigation. For mitigation they selected measure LUT 9 from the 2010 CAPCOA Handbook. This measure is to improve project design through intersection density. They should have used the current 2021 CAPCOA Handbook. In addition, they used a measure that was inappropriate for the projects land use. None of the cited studies or resources even mention a resort hotel.

Land Use - The SEIR states that the 2050 RTP identifies Mission Ave as a Rapid Transit Corridor and implies that that designation and the provision of bus service from Route 303 and others along Mission provides adequate transit service and complies with local and regional criteria related to smart growth. But becoming a smart growth corridor requires meeting both land use and transit service criteria. Transit service criteria are not just the frequency of service. Residents need to be able to easily access that transit service. That requires being located within 1/4 mile of a station with high frequency service. The residential land uses for this project are much greater than 1/4 mile from the stop at Douglas and Mission Ave. Furthermore, there is nothing that indicates how employees or visitors of the hotel would be served by transit. The project fails to comply with land use provisions in the general Plan, or the regional Plan, or the Circulation Element of the General plan. None of these inconsistencies were addressed leaving this a potential significant impact.

Energy – The SEIR states the project will provide 50% of its required building energy use by PV and therefor complies with the CAP. But the analysis of energy use included in the SWAPE letter describes how the analysis improperly used an input of zero natural gas in spite of the

project description that showed several systems that rely on natural gas. It also identified numerous other inaccuracies in the computations for energy use.

In comment F-14 We raised concerns about the accuracy of the project level GHG emissions based on life of the project which they assumed to be 30 years. The response was that they complied with the CAP. In fact the CAP does not specify project life so this statement is false. They further referred to “Planning Division Policy Directive” related to measuring emissions from the first full year of operation-assumed to be 2024. But there is no basis for this conclusion that they will be fully operational by 2024 when there is no schedule for completing the 700 housing units that will be major emitters of GHG. The actual operational date will be years after 2024 therefore it is false to claim they comply with MT/capita as of the time they are fully operational.

Overall, we find that this project could have substantial adverse impacts on the economic sustainability, and quality of life for the residents of our community. We also find the SEIR failed to do an adequate analysis of potential impacts and provided insufficient mitigation for impacts to Air Quality, Biological Resources, Land Use and Planning, Noise, Public Services, Transportation and VMT, Utilities and Service Systems, Energy and Greenhouse Gasses., and Cumulative Impacts, In general, the Project analysis is incomplete and inaccurate.

Numerous documents already on the record, written comments on these issues by us and others, and testimony at the Planning Commission hearing are all included by reference as the basis for this appeal.

Thank you for scheduling this appeal. Please feel free to contact me with any questions.

Sincerely,

Diane Nygaard  
On behalf of Preserve Calavera  
760-724-3887

ATT: 7/25/2022 Letter from Diane Nygaard on behalf of Preserve Calavera  
7/25/2022 Letter from Everett Delano

Incorporated by Reference : All comment letters and Responses to Comments included in Appendices to the SEIR.