

Coastal Law Enforcement Network

A biodiversity project of the
International Humanities Center
enforcing laws protecting the
California coast

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March 10, 2010

Los Angeles County Regional Planning Commission
320 W. Temple Street
Los Angeles, CA 90012

Re: Project No. TR067861-(4) Applicant: Woodfin Suites
Hotels, LLC-Parcel 9-U
Marina del Rey & Project No. R2006-03643- (4) Coastal
Development Permit No. 200600006 &
Environmental Assessment Case No. 200600216

Dear Planning Commissioners:

On behalf of Coastal Law Enforcement Action Network (CLEAN), Wetlands Defense Fund and Ballona Institute, we write to ask you to deny certification of the Environmental Impact Report, the Coastal Development Permit and all associated entitlements for the above-named project that would displace important Environmentally Sensitive Habitat Areas on the parcel referred to by the County as "parcel 9-U" and referred to by the public as Tahiti Marsh.

Specifically, this entire parcel meets the definition of ESHA (Environmentally Sensitive Habitat Area) due to the several types of wetlands on the site, including nontidal saltmarsh, alkali meadow wetland, riparian Sandbar Willow, alkali salt panne and seasonal pond, as well as foraging habitat for several bird species, including the Great Blue Heron (*Ardea herodias*) and Great Egret (*Ardea alba*.) All five

types of wetlands would be eliminated under the plans for this site, as a conversion of this habitat is planned for a change to tidal wetland, a conversion that is not the least environmental damaging alternative.

Besides the presence of numerous wetland species on site as documented by the developer's consultants, there are present on the site additional wetland species, including Alkali Rye (*Leymus Triticoides*) and Parish's Glasswort (*Arthrocnemum subterminale*). Additionally, there is sufficient Seaside Heliotrope (*Heliotropium curassavicum*) present on the site where the hotel is planned, combined with Saltgrass (*Distichlis spicata*) and Alkali Rye (*Leymus Triticoides*) to designate this area as a type of wetland.

In addition to habitat rich enough to support increasing observations of Heron and Egret foraging, there are plant species on the site which support the nest-building activities of Herons and Egrets include Sandbar Willow (*Salix hindsiana*), Pickleplant (*Sarcoconia pacifica*) and selected ruderal plants from the mustard, sunflower and goosefoot families.

Besides the wetland delineation conclusions of the developer's consultants not being supported by the data and observations on this site, virtually no attention is being paid to the 100 ft. buffers usually required by the Coastal Commission for wetlands and ESHA to function properly and to support the habitat flourishing. This buffer is not supposed to include walking paths or other human intrusion amenities. In fact, even if the wetlands that only the developer contends are present were "protected" and not built on, they would not be protected, and instead would result in a similar project at Upper Newport Bay where a small native-plant landscaped water feature remains in the shadow of a senior housing project. This is not wetlands preservation as the Coastal Act intends.

Related Legal Concerns:

There is a much greater area of the parcel that meets the wetland definitions under the California Coastal Act. In fact, the wetland references in several places in the documents supporting this project consideration refer to the three-parameter approach to determination of a wetland, which is completely irrelevant since this parcel is located in the California coastal zone, and therefore is subject ONLY to the one-parameter approach according to well-settled law. If there is a predominance of wetland vegetation on the site, or on a portion of the site, then that area is a wetland under the California Coastal Commission's guidelines and the definition under the law of the California Coastal Act. Likewise, if there is hydric soil or presence of water at or near the surface, then it is also a wetland. The wetland does not need to have all three characteristics. Additionally, hydric soils are present throughout the site, as is evidence of ponding for consecutive days sufficient for wetland determination.

Restoration of Wetland:

As mentioned above, all five types of wetlands would be eliminated under the plans for this site, as a conversion of this habitat is planned for a change to tidal wetland, a conversion that is not the least environmental damaging alternative. While the law allows for destruction of a wetland for "restoration purposes" – nowhere does the law allow for one wetland type to be converted to another type of wetland.

Section 30233 Diking, filling or dredging; continued movement of sediment and nutrients

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division,

where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, (emphasis added) and shall be limited to the following:

*Regional Planning Commission-LA County
Letter from Ballona Institute, CLEAN, Wetlands Defense Fund*

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Section 30233, thus, requires that a wetland can not be destroyed if there is a feasible, less environmental damaging alternative, and such an alternative exists by allowing the currently functioning wetlands to remain. Another such alternative exists whereby the County could choose to locate a hotel on another site they own in the marina and to preserve this entire Tahiti Marsh parcel.

Additionally, the proposal to construct an extremely tall hotel adjacent to this wetland will likely impact the continued functioning of the wetland. The geographic size of the wetland and the surrounding open space, buffers and wetland transition edge areas is part of what attracts the birds to use the site. As well, the diminishment of sunlight from the plants will likely adversely impact the wetland's functioning.

We disagree entirely with the Seaside Heliotrope document. Despite what any number of people might think about this plant species, it is the law that the list compiled by the US Fish & Wildlife Service documenting Seaside Heliotrope as an obligate wetland species means it must be treated as such in determining wetlands. Numerous scientists reviewed and approved of this characterization, and the document was approved. In addition, we have observed

the species adventitious roots during several restoration activities, and this characterization points to one of the reasons why the plant species was likely characterized as OBLIGATE.

We appreciate the opportunity to comment on this proposed project, and we urge you to deny certification of any EIR documents and to deny coastal development permits and other related permits for this project due to the violations of CEQA and the California Coastal Act, as referenced above and elsewhere in presentations presented by the public.

With best regards,

Robert van de Hoek
Biologist, Co-Director
Director, CLEAN
Ballona Institute
Wetlands Defense Fund

Marcia Hanscom
Managing
Director,