

VIA EMAIL

July 27, 2009

Mr. Michael Tripp
Department of Regional Planning
320 West Temple Street, Room 1362
Los Angeles, CA 90012

Re: Project R2006-03647, Project R2006-03652, Project TR067861, Project R2006-03643 and Project R2006-03644 (together the “Woodfin/Neptune Project”) COMMENTS on combined Draft Environmental Impact Report (DEIR) and combined Recirculated Draft Environmental Impact Report - Neptune Marina Apartments and Anchorage/Woodfin Suite Hotel And Timeshare Resort Project (“RDEIR”): OPPOSE

Dear Mr. Tripp:

We ARE Marina del Rey (“WAM”) strongly urges the Department of Regional Planning to reject the projects listed above, to deny all applicable Plan Amendments, Coastal Development permits, Conditional Use permits, Variances, Parking permits and Tentative Tract Map No. 067861 based on the issues and comments previously submitted by WAM on October 28, 2008 on the projects and the DEIR and based on the following issues and comments on the DEIR and the RDEIR.

Although instructions indicate that comments can no longer be submitted on the DEIR, because the hearing was postponed mid-hearing and the hearing on the DEIR was not completed, WAM is submitting additional comments on the DEIR along with comments on the RDEIR.

1) PROJECT DESCRIPTION

Conversion of Parcel FF

Pages 3.0-10 to 3.0-13 discuss the conversion of parcel FF from a public parking lot to residential use. It states that public parking at lot FF has been underutilized. It references the 2004 Crain and Associates study and states:

Crain’s 2004 findings regarding Lot 12’s underutilization by the public are corroborated by the more recent findings of a comprehensive March 2009 report titled “Right-Sizing Parking Study for the Public Parking Lots in Marina del Rey, California,” prepared for the County Department of Beaches & Harbors by traffic engineering firm Raju Associates, Inc. (“Right-Sizing Study,” attached as Appendix 5.7 to this DEIR).

Based on parking demand surveys of each of the Marina’s 13 public parking lots conducted by Raju Associates during the busiest summer weekends, holidays (Memorial Day, Fourth of July and Labor Day), and special event days in the Marina (i.e., the Halibut Derby and Boat Parade) of 2005 and 2007, the Right-Sizing Study finds that

each of the Marina's public parking lots "are greatly underutilized to varying degrees almost throughout the year, except for a few holidays and pre-holiday weekend days, even when the gate arms are up and no parking fee is charged" (Right-Sizing Study, Executive Summary, Page 1).

Regarding Lot 12, the Right-Sizing Study concludes: ...[I]n the past few years, this overflow lot has not been used much by the general public for recreational purposes but has been used mostly for construction staging and by construction vehicles during construction [of a nearby apartment project]. No public demand has been noticed in this lot...This lot is planned to be removed from the list of public parking lots in the future pending a Plan Amendment is by the CCC (Right-Sizing Study, Page 15). Lot 12's underutilization by the public is explained by the lot's relative isolation from visitor or recreational attractions in the Marina or surrounding vicinity.

The following key comments are made regarding the studies and use of Parcel FF:

- The Right Sizing Study did not include Parcel FF/Lot 12 in its analysis. It made its findings based on the Crain & Associates study. Thus, references to the Right-Sizing Study should be deemed irrelevant and removed from the RDEIR
- The Crain & Associates analysis of Lot 12/Parcel FF makes no mention of the fact that two thirds of the lot was closed off for use as a construction staging parking for Esprit I development on Marquesas. A fence was put up on the perimeter of the lot covering its frontage to Via Marina and along Marquesas to the entrance. This use would skew the results of the parking study because fewer spaces would be available and the public would not be aware of the availability of a public parking lot.

The RDEIR states:

Development of Parcel FF with residential use, as proposed, will preclude the potential future development of a public park on the parcel, which could have occurred pursuant to the parcel's current Open Space land use designation. It should be noted there is no evidence that, absent the current development proposal, a park would, in fact, be developed on Parcel FF in the future.

Neither the County nor the private development community has any plans to develop Parcel FF for the permitted park use. To the contrary, Section A.2 of the LUP (page 2-5), under the "Potential Conversion of Public Parking Lots" subsection, expressly acknowledges that Parcel FF is underutilized by the public and is thus being contemplated for conversion to residential use.

The following comments are made with reference to the above statements:

- Section A.2 of the LUP (page 2-5) does not contemplate conversion of Parcel FF into residential use. It states:

“In the case of Lot FF, a public park is being contemplated as part of the new development.”

- Regardless of the contemplation of the LUP regarding potential conversion of public parking lots, the LUP parking policies #12 (page 2-8) clearly states:

“No designated public parking areas, including, but not limited to Lots OT, UR or FF shall be converted to uses other than public parking or parks.” (emphasis added)

Furthermore, the Marina del Rey Specific Plan limits development on Parcel FF to 25’, which would preclude residential development.

The notion that just because an act was contemplated means it is allowed is unfounded. If the LUP truly contemplated conversion of public parking lots, parking policy #12 stated above would not have been created.

- A lease option for Parcel 10/FF was approved by Los Angeles County Board of Supervisors in August 2008. The lease option was conditioned on implementing a future EIR process.

Because of these factors, conversion of parcel FF into a park and/or other feasible alternatives and/or mitigation measures was precluded from consideration prior to the environmental review. This is indirect conflict with the courts that provided the following guiding general principle: “[b]efore conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Save Tara*, ___ Cal. 4th ___ (citing Cal. Code Regs., tit. 14, §15004(b)(2)(B)).

As enunciated by the Supreme Court, in determining whether a conditional agreement such as the one in *Save Tara* is an approval under CEQA, "courts should look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures.

An agency's statements and unofficial actions, taken as a whole, can be the basis for finding that an agency has "committed to a definite course of action" and, therefore, "approved" a project. If environmental review has not preceded the agency's "commitment," then the agency has run afoul of CEQA.

Los Angeles County has stated on numerous occasions that FF would not be used as a park. They used FF as a staging ground for construction parking for 5+ years. Furthermore, the alternative project use of FF as a park was not fully considered. Los Angeles County never issued an RFP for any private or public entity for the creation of a park on Parcel FF. And, the County had not and is not intending to make use for this site

of Coastal Improvements Funds paid by developers for the purpose of park development in the Marina. They are doubling the population of the Marina without increasing green space for residents or public use.

The RDEIR states:

To further compensate for the inability to potentially develop a public park on Parcel FF in the future, as a result of developing the parcel with an apartment building, Legacy Partners will fund and develop a public-serving anchorage to adjoin the Parcel 10R and 9U bulkhead. (pg 3.0-73).

This tradeoff does not provide residents of Marina any compensation or mitigation for the loss of a potential park. As stated previously, the residential population is expected to grow with all the proposed redevelopments in the Marina. And there are no provisions park facilities or green space for residential use.

Timeshare Component

The RDEIR on page 3.0-32 states that:

The Woodfin Suite Hotel and Timeshare Resort will enhance visitor-serving uses by providing much needed additional overnight accommodations through both the hotel and timeshare component, both of which are consistent with the LCP.

Our comments:

- There is no supporting documentation that shows much needed additional overnight accommodations are needed in Marina del Rey. Historical occupancy rates are in the low 70s%. A need for low-cost overnight accommodation does exist, which this project does not meet. Additionally, the redevelopment proposals of the existing hotels in the Marina will increase the cost of staying in the Marina, making it unaffordable for the average tourist, which is not consistent with Coastal Act policies.

The DEIR, Section 5.17 states:

Several sections of the LCP discuss hotel use. As set forth below, an analysis of these LCP sections demonstrates that the proposed timeshare component is tantamount to this type of approved and encouraged visitor-serving use.

Despite the DEIR analysis that concludes timeshare is consistent with the LCP through a myriad of related definitions and references to the County General Plan, we have previously stated in our October 28, 2008 comments that the Coastal Commission requires an LCP amendment for timeshare development when the LCP does not specifically authorize timeshare development. Neither the Marina del Rey LUP and LIP specifically allow timeshare use or include timeshare use in the definition of hotel. Thus timeshare is not a permitted use per the LCP or the Coastal Act without an LCP amendment to change land use regulations.

From the statement above, the DEIR continues with:

First, subsection (e) (Policies and Actions) of section A.2 (Recreation & Visitor-Serving Facilities) in the LUP lists overnight lodgings as a qualifying visitor-serving use in accord with related Coastal Act provisions. The timeshare portion of the Woodfin component, which, as noted, will be operated similarly to a conventional hotel, is a type of overnight lodging that is consistent with the overnight lodging policies of the LUP's Recreational & Visitor-Serving Facilities chapter.

It is true that overnight lodgings is included as a visitor-serving use but it included with public or private recreation, cultural and educational facilities, gift and specialty shops, service concessions (ie boat, bicycle or skate rentals), food and drink establishments and related parking areas. It is clear from this list that visitor-serving uses are for temporary use of services and not for ownership. This applies to overnight lodgings. The LCP does not define overnight lodgings and the definition of timeshare implies ownership, not temporary use of services. Additionally, as will be discussed in more detail below, the key to the definition of hotel in the Los Angeles County General Plan is temporary. Thus, timeshare is NOT consistent with the overnight lodging polices of the LUP of the Coastal Act.

The DEIR further states:

Second, LUP section C.8., Land Use Plan, subsection (e) (Policies and Actions, Part 2 – Mapped Policy for the Land Use Plan), lists “hotel” as a permissible land use category, and designates overnight accommodations and attendant visitor-serving uses including dining and entertainment areas as uses that may occur attendant to a hotel. The proposed timeshare component would be limited to a maximum annual and consecutive use of four weeks, in an integrated tower with other hotel suites, all of which would provide overnight accommodations and which would be contained in a structure providing dining and ancillary services.

The section of the LUP referenced in the preceding paragraph provides a list of land use categories which includes hotel. The land use category describes what a hotel/motel is permitted to do. In other words, it defines hotel/motel use as providing overnight accommodations and attendant visitor-serving services. Thus, the LCP does define hotel. And it is silent on ownership of timeshare suites.

Furthermore, the RDEIR states:

Finally, the LCP section addressing the Land Use Plan (LUP section C.8.e.7.) incorporates by reference language from the Countywide general plan and Title 22, Planning and Zoning, Los Angeles County Code.

LUP section C.8.e.7 does incorporated by reference, language from the Countywide general plan and Title 22, Planning and Zoning but it is in relation to entitlements to develop a new uses or change or expand an existing uses. And it states that such entitlements will utilize the County's Planning and Zoning code (Title 22) for the Coastal Development Permit process. Additionally, it will use the County's general plan, Title 22 and the LUP is it relates to the design, location and

intensity of development on a specific parcel but it does not reference or incorporate language related to the type of use. Thus, this section provides no information as to the consistency of timeshare use with the LCP or the Coastal Act.

Specifically, the Marina del Rey Specific Plan portion of the Zoning Code, section 22.46.1030.A (Relationship to the Los Angeles County Land Use Regulations), states: “For matters on which this Specific Plan is silent, other applicable provisions of Title 22 shall control.” Therefore, because the LCP does not expressly define overnight lodgings or hotel (i.e., the LCP is “silent” on the issue), Title 22 provisions apply to this use.

First, as discussed above, the LUP section C.8., Land Use Plan, subsection (e) (Policies and Actions, Part 2 –Mapped Policy for the Land Use Plan) does define hotel use as providing overnight accommodation. The LUP is not silent so the provision “*For matters on which this Specific Plan is silent, other applicable provisions of Title 22 shall control,*” does not apply.

Furthermore, the Marina del Rey Specific Plan, Section 22.46.1030 states:

Where provisions of this Specific Plan are in conflict with other provisions of this Title 22, this Specific Plan shall prevail.

Additionally, section 22.46.1020 reads:

This Specific Plan is a key component of the Local Implementation Program for Marina del Rey. It is designed to implement the Marina del Rey Land Use Plan through the application of site-specific development standards and guidelines.

The Specific Plan implements the Land Use Plan and the Land Use Plan defines hotel use. Therefore, the Specific Plan is not silent on definition of hotel. And the LCP is not silent on the definition of hotel.

The DEIR further states:

Title 22 defines hotel as “Any building containing six or more guest rooms or suites of guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied on a temporary basis by guests.” The project proposed hotel and timeshare use is consistent with this definition and is therefore an allowed use on Parcel 9U.

To be conservative, even if the LCP was silent on hotel use, Title 22 of the Los Angeles County General Plan does not define nor include timeshare use. It specifically defines hotel as a temporary use which is in direct conflict to the definition of timeshare. Wikipedia defines timeshare as:

“A timeshare is a form of ownership or right to the use of a property, or the term used to describe such properties. These properties are typically resort condominium units, in which multiple parties hold rights to use the property, and each sharer is allotted a

period of time (typically one week, and almost always the same time every year) in which they may use the property.”

According to the *Research & Practice Guide: California Legislative History and Intent*, “statutory language is to be interpreted according to the ordinary and common meaning of the words used unless it is clear that the legislature intended a different meaning.

It is clear that neither the Marina del Rey LCP nor the County General Plan includes timeshare in the definition of hotel and it was not intended to do so.

To summarize:

- 1) The LCP does define hotel - LUP section C.8., Land Use Plan, subsection (e) (Policies and Actions, Part 2 –Mapped Policy for the Land Use Plan)
- 2) Title 22 of the LA County Planning and Zoning code definition of hotel does not include timeshare.
- 3) It is irrelevant that both the Marina del Rey LCP and the County General Plan and Title 22 code do not exclude timeshare. Judicial interpretation assumes that a drafter’s intent not to include is purposeful. They say what they mean.
- 4) Ownership of a timeshare that may cost \$10,000 is not equivalent to the temporary, overnight use of a hotel room for \$250. Additionally, there is no guarantee that the timeshare units will actually be available to the general public.

In conclusion, the use of timeshares in Marina del Rey is inconsistent with the Marina del Rey LCP and the Coastal Act. Therefore, the Woodfin portion of the project should be rejected.

Public Access & Recreation

The Woodfin/Neptune project calls for an interactive node of public access and recreation that includes the Wetland and Upland Park, the public anchorage, the Waterfront Stroll Promenade and the first floor amenities and services of the Woodfin Hotel including the restaurant. The RDEIR states:

It is intended that the ground floor of the hotel, the adjacent pedestrian promenade, the wetland park, and the public serving boat spaces combine to create an interactive public node.

Additionally, it states:

Turf block areas would provide a sturdy space for group lectures, seating for visitors bringing lawn chairs for bird watching etc., and maintenance vehicles.

And:

Parking for park visitors will be conveniently located within the adjacent hotel/timeshare resort's parking area (as noted, up to 21 fee-based self-parking spaces will be provided within the hotel/timeshare resort project, for use by the public).

Appendix 5.7c - *Crain Associates Shared Parking Analysis for Woodfin* - analyzes the uses of the project that will require parking and the amount of spaces. This list includes only:

- Hotel/Timeshare Resort
- Sundry Shop
- Spa
- Ballroom
- Meeting Room
- Restaurant

The Shared Parking Analysis does not analyze public parking requirements for the public anchorage, the wetland park or the stroll promenade. Providing just 21 parking spaces for all the intended public access and recreation uses is insufficient and would require visitors to use the more expensive valet services for public access.

Ironically, the overall project eliminates a 200-space public parking lot (Parcel FF), adds what it calls an “interactive public node” (to justify the egregious overall project) and then provides insufficient public parking.

The lack of public parking spaces and the cost of valet is inconsistent with the visitor-serving provisions of the Marina del Rey Land Use Plan and the Coastal Act.

Original Project Started On Site

The RDEIR on page 3.0-3 states that:

In 1981, a hotel was previously approved by the CCC for development on the subject Parcel 9U (the “Marina Plaza Hotel”; see CCC Case No. A-207-79). The Marina Plaza Hotel was approved by the CCC with 300 guest rooms in nine stories and an assortment of patron- and visitor-serving accessory uses, including restaurants, a bar, a coffee shop, banquet facilities and meeting rooms, all over two stories of subterranean parking. Some site grading was completed and two concrete piles were installed by the developer of the Marina Plaza Hotel. The developer ultimately abandoned the Marina Plaza Hotel development on Parcel 9U due to lack of finances.

However, there is nothing in the DEIR or RDEIR that addresses the fact that the concrete piling installed to support the building foundation sank. There is no analysis that supports the weight and height of a 225 foot building on this site.

Wetland Park

The Woodfin/Neptune project calls for the removal of the existing freshwater wetlands and recreation of a seawater based wetland park. Case law from Bolsa Chica provides that wetlands are not allowed to be moved.

Additionally, section 30233 - Diking, filling or dredging; continued movement of sediment and nutrients of the Coastal Act states:

(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, **and shall be limited to the following:**

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities.

The proposed Woodfin/Neptune project does not meet these requirements.

These factors would make the proposed project for a wetland project inconsistent with State law and the Coastal Act.

Questions

- 1) The Parking Policies of the Marina del Rey LUP state that all development must include parking for residents, guests, visitor use and public access. How does this project meet the requirements of this policy?
- 2) 3.0-67 states that Woodfin hotel will have a 225 ft building height when measured from finished grade elevations along Via Marina. Will the grade level of Parcel 9U be changing?

- 3) How much cumulative excavation, cut and fill will there be from the Woodfin/Neptune project, The Shores, the Venice Dual Force Main project and the Esprit II project? This has not been analyzed.
- 4) What are the overall construction impacts and timelines from the Woodfin/Neptune project, The Shores, the Venice Dual Force Main project and the Esprit II project? This has not been analyzed.
- 5) In order to build the public anchorage on Parcel 9U, it appears that the existing dock and slips along Parcel 9U will be eliminated. Currently, these slips belong to the Bay Club Anchorage. Where in the DEIR or RDEIR is the demolition of these slips discussed and analyzed including parcel boundary changes?
- 6) How much transition and upland habitat and upland scrub?
- 7)

2) NOISE

Page 5.2-1 of the RDEIR concludes:

Construction noise would affect nearby noise sensitive residential uses and noise sensitive uses along the proposed haul route. Exterior noise levels during site construction of up to 100 dB(A) could be experienced at some noise sensitive uses that would have direct lines of sight pile driving. Noise levels generated during construction would periodically exceed County standards for exterior noise levels during the workday. To mitigate construction noise, all construction activities would comply with the County of Los Angeles Noise Control Ordinance (Ordinance No. 11773).) so that construction noise would be limited to normal working hours when many residents in the Marina del Rey would be away from their homes. Nevertheless, construction noise would represent a temporary, but significant impact, as noise levels would periodically exceed County standards, even after mitigation.

Section 5.2 of the RDEIR fails to include the following factors in its analysis of Construction Noise impacts, Haul routes noise impacts, Vibration impacts and Operation Impacts; Point Source Noise. Therefore the DEIR and RDEIR do not truly analyze cumulative noise impact.

Esprit II Impacts Not Analyzed

In 2009, Los Angeles County renegotiated its lease with Marina Two Holdings for Parcel 15 (Esprit II), a parcel that previously received project approval for a 500+ unit apartment complex and a 225 slip anchorage. The Esprit II parcel abuts part of the Woodfin/ Neptune/Woodfin Project, specifically on parcel FF portion. The Esprit II project includes multiple buildings in an L-shape along Via Marina and Panay Way. It is located across from the Shores project.

The renegotiated lease requires that the developer complete construction of Esprit II by August 2013, approximating the completion times for the four major portions of the Woodfin/Neptune Project.

The RDEIR does not include information on the number of truck trips to be generated by Esprit II nor does it cumulative analyze the construction noise impacts, haul noise impacts and

vibration impacts from the Woodfin/Neptune Project, the Shores Project, the Venice Dual Force Main project and the Esprit II project.

Impact on Residents

The RDEIR states:

To mitigate construction noise, all construction activities would comply with the County of Los Angeles Noise Control Ordinance (Ordinance No. 11773).) so that construction noise would be limited to normal working hours when many residents in the Marina del Rey would be away from their homes.

The RDEIR fails to account for the unique demographic mix of residents in the unincorporated area of Marina del Rey as well as the City of Los Angeles portions on the west side of Via Marina. A larger than typical population of stay at home moms, retirees and entrepreneurs live in the Marina and do not leave the area during normal working hours. There is no study of resident travel patterns during a typical work day included in the DEIR or the RDEIR. Because of the significantly higher number of residents that stay in the area during the workday, further analysis is needed to measure the true noise impacts on residents and to develop further mitigation measures beyond what is included in the RDEIR.

Noise Levels

The Noise level data used for construction equipment (Table 5.2-5) and Vibration Source Levels (Table 5.2-6) are sourced from the EPA and the US Department of Transportation as standard measurements of noise levels. However, anyone who lives in Marina del Rey can attest to the fact that noise levels carry very easily in the Marina. Because of the unique layout of the marina and harbor and proximity to shoreline, wind tunnels from the fingers noise carries much more here. The RDEIR has not taken into account the specific nature and characteristics of noise in the Marina and therefore have not properly analyzed cumulative noise impacts.

Operation Noise Levels

Noise levels from hotel operations once the project is complete does not appear to be measured. Appendix 5.2 Noise Modeling uses the same “Assumed 24-Hour Traffic Distribution” for each project whether residential, wetland park, or hotel. There will be 24-hour noise impacts due to hotel visitors, delivery trucks, food service truck, refuse removal and employee trips which have not been reviewed or analyzed in this RDEIR.

Cumulative Truck Trips

The RDEIR states that for the entire Woodfin/Neptune project: “during the initial two months of demolition and excavation, as many as 284 truck trips would arrive to and leave the site daily. During the remainder of the project construction, the number of truck trips would range from 70 to 194 trips per day.”

The RDEIR fails to show cumulative truck trips for the Woodfin/Neptune project, the Shores Project, the Venice Dual Force Main project and Esprit II project. Without such information, it is impossible to analyze cumulative noise impacts.

Question on Noise Impacts

- 1) Does the haul route include Via Marina south of Marquesas?
- 2) Do the truck trip numbers for the Woodfin/Neptune project include construction of new sewer lines along Via Marina and Marquesas that are outside the project boundaries?
- 3) The DEIR states that there will be an “additional 3,104 daily vehicle trips to on local roadways situated proximal to the project site (1,017 trips from the Neptune Marina Apartments - Parcel 10R, 499 trips from the Neptune Marina Apartments- Parcel FF, and 1,588 trips from the Woodfin Suite Hotel and Timeshare Resort- Neptune Marina Parcel 9U. What types of vehicles and how many trips of each type do these numbers represent?
- 4) Construction worker traffic, which would be largely comprised of passenger vehicles and light pick-up trucks, would not represent a substantial percentage of peak hour volumes in the area and would not cause an audible increase in community noise levels. What is the percentage increase in peak hour volumes from construction workers traffic? How many workers and how many vehicles are expected on average for the project over the construction period?

3) VISUAL QUALITY

The RDEIR states on page 5.6-2:

Pursuant to Section 15162 of the State CEQA Guidelines, no new impact finding is required for this project as the height is the same as was contemplated in the LCP when amended. In essence, the Coastal Commission and the County, in discharging their CEQA obligations during the amendment process, elected to allow greater height at certain sites in exchange for larger view corridors.

However, § 21166 states that

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Since the LCP was certified in 1996, a process which is deemed equivalent to the preparation of an EIR, new conditions exist on the ground in the Marina exist that could not have been know at the time the LCP was certified. These changes could impact the original decision to allow a

maximum height of 225 feet on this site as well as other potentially negative environmental impacts of this project.

These new conditions include:

- The designation of portions of parcel 9U as a wetland by the Army Corp. of Engineers
- The identification of ESHA sites in the Marina by the California Coastal Commission on January 9, 2008, including the nesting and roosting of the Great Blue Heron and the Great Egret and Snowy Egrets. One such site is located on the Northwest Passage and the main channel.
- The foraging of Great Egrets on the northerly portion of 9U observed by a member of the public during 2009 (see attached photo)
- the California Coastal Commission recommended during its LCP Periodic Review that Los Angeles County conduct a study of potential ESHA sites in the Marina. This study has not been performed.
- The designation by the State Department of Geology of the project site as being located in a high risk liquefaction zone.

In fact, during its Marina del Rey LCP Review, the California Coastal Commission recommended that Los Angeles County undertake a comprehensive update of its LCP because changes have occurred since the last certification and because the impacts of proposed projects need to be reviewed on cumulative basis.

Neither the DEIR nor the RDEIR analyze project, building height and visual impacts on existing and potential ESHA sites, on the flight path of the Great Blue Heron or Great Egrets, on the shade affects of the adjacent wetlands, on the liquefaction risk or on the stability of the project site to sustain a 19-story structure.

4) TRAFFIC

Why has the ambient growth changed from 2% in the 1991 DKS Traffic Study to the .6% used in the RDEIR traffic analysis?

5) SOLID WASTE

Neither the DEIR nor the RDEIR summarize total export of cut and total import of fill cumulatively for the project (including changes from sewer lines) plus cumulatively to include the Shores project, the Venice Dual Force Main project and the Esprit II project. Without such analyses, the DEIR and the RDEIR are incomplete and cannot measure project and cumulative solid waste impacts.

6. CONCLUSION

Based on the above facts, comments, concerns and issues related to the Woodfin/Neptune Project and all Marina del Rey development, WAM urges Regional Planning to deny this project the Plan Amendments, all applicable permits, and deem the DEIR and the RDEIR insufficient in light of the overall piecemealing of the Marina Redevelopment Project (as stated in our October 28, 2008 comments letter). Additionally, we urge you to advise the Board of Supervisors to prepare an Environmental Impact Report for the overall Marina Redevelopment Project and adhere to the California Coastal Commission's recommendation to carry out a comprehensive LCP update in order to assess the overall environmental and social impacts of the Marina Redevelopment Project through a meaningful community planning process.

Together,
We ARE Marina del Rey



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The Wetlands Defense Fund and CLEAN (Coastal Law Enforcement Action Network) agree with these comments and intend on commenting further at public hearing(s) in the future. Please include Marcia Hanscom at these organizations in all future public notices at 322 Culver, #317, Playa del Rey CA 90293