

March 21, 2011

Michael Tripp
Principal Planner
Special Projects Section
Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: Project Nos. R2006-03647, R2006-03652, TR067861, R2006-03643, R2006-01510 and R2006-02726

Dear Mr. Tripp,

On March 16, 2011 you informed me that the LA County Board of Supervisors would be hearing five projects (listed below) on April 26, 2011.

Background

The five projects are:

1. The Neptune Marina apartments on Parcels 10 and FF (project #s R2006-03647/R2006-03652)
2. The Woodfin Suite Hotel and Timeshare Resort on Parcel 9 (project # TR067861)
3. The wetland park on Parcel 9U (project # R2006-03643)
(On March 10, 2010 the Regional Planning Commission approved project #s R2006-03647, R2006-03652, TR067861 and R2006-03643 and certified the Final Environmental Impact Report. On March 22, 2010, We ARE Marina del Rey appealed the decision of project #s R2006-03647, R2006-03652, TR067861 and R2006-03643 to the Board of Supervisors)
4. The senior facility on Parcel OT (project # R2006-01510)
5. The marine commercial facility on Parcel 21 (project #R2006-02726)
(On April 10, 2010 the Regional Planning Commission approved project #s R2006-01510 and R2006-02726 and certified the Final Environmental Impact Report. On May 10, 2010, We ARE Marina del Rey appealed the decision of project #R2006-02726 to the Board of Supervisors.)

Per LA County Code section 22.60.200 to 22.60.260, the appeals vacate the decision of the Regional Planning Commission. Per section LA County Code 22.60.260, projects containing associated LCP amendments, are automatically called up to the Board of Supervisors for review.

On February 2 and March 15, 2011, the LA County Board of Supervisors approved a major amendment to the Marina del Rey Local Coastal Program referred to as the Map and Text Amendment (“LCP Amendment”).

Analysis

As part of written and oral testimony on the above referenced projects, We ARE Marina del Rey alleged that LA County (“County”) is piecemealing the redevelopment of Marina del Rey in violation of state law, including the California Coastal Act (“Coastal Act”) and the California Environmental Quality Act (“CEQA”). From our comment letter submitted October 28, 2008:

“County has admitted on the record and it is widely known, that County intends to redevelop Marina del Rey (the “Marina Redevelopment Project”). This “Marina Redevelopment Project” constitutes “a project” under CEQA. According to Public Resources Code § 21065, a project is defined as the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...”

“County is dividing “the Marina Redevelopment Project” into smaller redevelopment projects in order to reduce and hide the environmental impact of the “Marina Redevelopment Project.” Therefore, County is piecemealing the “Marina Redevelopment Project,” in violation of CEQA. California Supreme Court case law holds that the County cannot “hide” the redevelopment project from the public by breaking the Marina Redevelopment Project into little parts, and the County’s behavior – actions and words - confirms there is “a Marina Redevelopment Project.”

“An Environmental Impact Report prepared for the whole “Marina Redevelopment Project” should be County’s highest obligation to determine the overall environmental impacts of all projects in the Marina.”

“The California Coastal Commission stated during its Local Coastal Program (the “LCP”) Periodic Review hearing on January 9, 2008, that County is piecemealing projects and that this is bad planning. They strongly recommended (said recommendation reaffirmed on October 16, 2008), that County should do a comprehensive LCP update amendment of anticipated future development that includes all pending project driven amendments, fulfillment of Asset Management strategies and other facilities identified through a community planning process.”

Prior to the five projects receiving Regional Planning Commission approval, County announced the decision to prepare the LCP Amendment along with a cumulative impact assessment of all projects contemplated by LA County (June 2009). The stated purpose was to avoid piecemealing and give the California Coastal Commission the ability to review all projects requiring LCP amendments and other issues of concern including public parking, environmental and the cumulative impact assessment of all development to be proposed in Marina del Rey. Nonetheless, County proceeded with piecemeal project hearings and project approvals.

Both County Counsel and Department of Regional Planning staff have stated that the projects referenced above would not be heard until after the LCP Amendment was ruled on by the California Coastal Commission. We applauded this approach, which would be consistent with the lawful authority under CEQA to prepare a master EIR for the entire conceptual development of the Marina in the LCP Amendment, followed by focused EIRs in a tiering manner, as specifically provided in Pub Res Code Section 21068.5, CEQA Guidelines 15165, 15385. [**§ 21068.5. TIERING OR TIER** “Tiering” or “tier” means the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.”]; The program or master EIR should address the broad environmental issues (cumulative impacts of all projects, growth-inducement, traffic, regional impacts, parking etc), followed by focused or supplemental EIRs (using the documents already

prepared but updated to incorporate the new information detailed herein), dealing with localized site-specific parcel concerns such as habitat impacts, wind, height/shade, intersection problems, etc. See Pub Res Code Section 21093(a)¹, CEQA Guidelines 15152(a).

By hearing the five projects at the Board of Supervisors prior to a California Coastal Commission ruling on the LCP Amendment, County continues to piecemeal the Marina Redevelopment Project. No overall project EIR exists that includes an impact analysis of the five projects referenced above as well as the numerous other projects proposed for redevelopment. A project EIR must be completed that covers all the projects LA County is contemplating and circulated to the public for review and comment prior to any further project hearings.

County has claimed that the project environmental impact reports for the five projects include a sufficient cumulative impact assessment. However, since these project environmental impact reports were certified, a major Marina del Rey local coastal program amendment has been introduced, new information relating to project impacts and analysis has been released and deficiencies in the environmental impact reports have been identified, as further detailed below. Therefore, the two project environmental reports referenced in paragraphs 3 and 4 above must be recirculated for public review and comment.

Additional information and analysis required to be incorporated into the recirculated environmental impact reports for public review and comment would include, but are not limited to:

- The Draft Traffic Study dated April 29, 2010 (both EIRs).
- The Final Draft Right-Sizing Parking for the Public Parking Lots in Marina del Rey dated June 2010 (both EIRs).
- The Cumulative Impact Assessment for Marina del Rey Pipeline Projects dated October 2010 (both EIRs).
- The Conservation & Management Plan for Marina del Rey, Los Angeles County, California dated August 19, 2010 (both EIRs).
- An analysis of negative impacts to public parking and deficiencies in the Right-Size Parking Study identified by We ARE Marina del Rey and submitted to the Board on February 1, 2011 (both EIRs).
- A review of overall impacts to actual open space and recreational use of the Marina from the above projects based on Open Space/Recreational Use analysis submitted to the Board by We ARE Marina del Rey on Feb 1, 2011 (both EIRs).
- An analysis of impacts of the land use change for parcel 9 made after the project was approved by the Regional Planning Commission (Woodfin/Neptune EIR).

¹ **§ 21093. LEGISLATIVE FINDINGS AND DECLARATION; PUBLIC AGENCIES MAY TIER ENVIRONMENTAL IMPACT REPORTS**

(a) The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(b) To achieve this purpose, environmental impact reports shall be tiered whenever feasible, as determined by the lead agency.

- An analysis of impacts of the land use change for parcel 21 made after the project was approved by the Regional Planning Commission (OT/21 EIR).
- An analysis of impacts on the additional land use, circulation, traffic mitigation and development potential allocation changes included in the Map and Text Amendment (both EIRs).
- Revised wind studies including (1) for the Woodfin hotel project for which the wind study included in the environmental impact report utilized an older project site design with buildings in different locations, *ergo* with different wind impacts; and (2) a cumulative wind impact study of the LCP Amendment.
- Revisiting short-term construction impacts in the area due to changing timelines for various projects in close vicinity to the projects listed above including the The Shores project, LA County Waterline project along Admiralty Way and the Oxford Retention Basin project.
- An update for the transfer of open space from Parcel FF to Parcel 9U, which served as mitigation for loss of open space, which should have required an LCP amendment and should have been included in the project hearings (an amendment was made to Parcel 9U for this mitigation transfer after the project decision was rendered).
- An update for the transfer of public parking from Parcel OT to Parcel 21, which served as mitigation for the Parcel OT project, which should have required an LCP amendment and should have been included in the project hearings (an amendment was made to Parcel 21 for public parking after the project decision was rendered).
- A study of Great Blue Heron and Great Egret usage of parcel 9U and impacts on them from the projects including wind impacts (Woodfin/Neptune EIR).
- An updated wetland delineation should be performed due to the time lapse since the last delineation was performed in 2008, especially given the concerns of expanded pickleweed growth expressed by Andi Culbertson and Tony Bomkamp in 2008 and the effect on the project's viability. The delineation should be performed during months consistent with prior project site examinations (August/October/November 2004, January 2005, June 2006 and May 2008).

Additionally, we have determined that the Woodfin Hotel (project # TR067861) and the Wetland Park (project # R2006-03643) projects are inconsistent with the Certified LCP and the LCP as proposed to be amended, and are in violation of the Coastal Act and Federal Clean Water Act. The reasons include, but are not limited to, those stated below.

Therefore, the site plans must be redesigned/re-sited and resubmitted for approval of the Design Control Board and Regional Planning Commission.

- In our comment letter for the Woodfin, Neptune and Wetland Park projects submitted on October 14, 2009, we asserted that the parcel 9U was going to be bifurcated into parcels 9U and 9V (source: underlying Lease Agreement in Legacy Partners Lease Option with LA County) and that LA County would maintain parcel 9V and the developers of Woodfin would lease the newly sized parcel 9U. Based on this, we stated that there was insufficient view corridor available to allow a 19-story hotel, as the water frontage of the new parcel would be insufficient to provide a 154' view corridor required for a 19-story structure.

The subsequent land use change on the southern portion of parcel 9U from Hotel to Open Space contained in the LCP Amendment further supports the intention to bifurcate parcel 9U. Thus we re-state that there is insufficient view corridor available to allow a 19-story hotel and therefore, the project as presented is inconsistent with the Certified LCP (and the proposed amended LCP).

- Our re-examination of the hotel site plan for parcel 9U included in the EIR (Figure 3.0-12) and the Conceptual Wetland Mitigation Plan (Figure 3.0-26) both reveal that the 28' wide firelane extends by at least 40 feet into the 25 foot buffer zone and the 3-parameter protected wetland as shown in the delineation in the June 9, 2005 Jurisdictional Wetland Status of Parcel 9U (Figure: Potential Wetland Areas) and in the delineation in the May 27, 2008 revised Jurisdictional Wetland Status of Parcel 9U (Exhibit 3), both conducted by Glenn Lukos Associates. The Wetland Mitigation Plan appears to move the existing wetland south instead of preserving its current location. Thus, the hotel site plan is inconsistent with the Certified LCP and violates section 30233 of the Coastal Act and section 401 of the Federal Clean Water Act.

Conclusion

We believe that these five projects should first be included in one comprehensive project EIR for the entire master redevelopment plan and presented to the Coastal Commission in the proposed LCP Amendment, and that tiered or supplemental focused EIRs can deal with the peculiarities of each parcel **after** the California Coastal Commission has ruled on the propriety of the proposed Map and Text Amendment. This orderly process, specifically called for by the Legislature under the CEQA sections cited above, would provide the Commission and the public adequate time and information to review the Marina Redevelopment Project and its cumulative impacts, as well as the peculiarities of each project, within the context of the whole plan from a CEQA standpoint.

Thank you in advance for your time. If you have any questions, please do not hesitate to contact us.

Sincerely,



David Barish
Co-Director