Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Bruce W. McClendon FAICP
Director of Planning

January 23, 2007

Honorable Board of Supervisors
County of Los Angeles
Kenneth Hahn Hall of Administration, Room 383
500 West Temple Street
Los Angeles, CA 90012

PROJECT NO. R2005-00234-(4)
COASTAL DEVELOPMENT PERMIT CASE NO. T20050002-(4)
VARIANCE CASE NO. T200500004-(4)
PARKING PERMIT CASE NO. T200500004-(4)
PETITIONERS: PEOPLE ORGANIZED FOR WESTSIDE RENEWAL & RICHARD I. FINE
4201 VIA MARINA, MARINA DEL REY
PLAYA DEL REY ZONED DISTRICT
FOURTH SUPERVISORIAL DISTRICT (3-VOTE)

Dear Supervisors:

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING:

1. Sustain the Approval of Project No. R2005-00234-(2), Coastal Development Permit Case T20050002-(4), Variance Case No. T200500004-(4) and Parking Permit Case No. T200500004-(4) as recommended by the Regional Planning Commission.
2. Instruct County Counsel to prepare the necessary findings to Deny the Appeal of Project No. R2005-00234-(2), Coastal Development Permit Case T20050002-(4), Variance Case No. T200500004-(4) and Parking Permit Case No. T200500004-(4).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

- The applicant, Del Rey Shores Joint Venture, filed a Coastal Development Permit to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey Specific Plan. The proposal consists of twelve

buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline; a Parking Permit to utilize compact parking spaces. A total of 1,088 parking spaces will be provided within parking structures on-site, and a Variance for the construction and maintenance of signage in excess of County code requirements. The subject property is located at 4201 Via Marina, Marina del Rey (Marina Parcels 100 and 101).

- The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant subsequently withdrew this request and has agreed to provide 54 affordable housing units; these include 17 inclusionary units for very low income tenants and 37 replacement units for moderate income tenants.

- The Regional Planning Commission held four public hearings on this request on January 25, 2006, March 1, 2006, April 19, 2006 and June 7, 2006.

- The first public hearing before the Regional Planning Commission on January 25, 2006, provided an opportunity for the County to reassess its Affordable Housing Policy for Marina del Rey. The County's public policy priorities shifted toward affordable housing on-site in new projects in the Marina.

- On April 4, 2006 the Board of Supervisors adopted a motion that instructed the Chief Administrative Officer to form and lead a task force comprised of the Department of Regional Planning, Community Development Commission and County Counsel, working in conjunction with the Department to Beaches and Harbors. The purpose of this task force was to review the County's current affordable housing policy for Marina del Rey and recommend revisions necessary to ensure consistency with the Mello Act. The Board also directed the task force to report back within 60 days with a revised affordable housing policy for review and further recommendations.

- As further delay would cause a hardship to the applicant, the Board of Supervisors also authorized, as part of its motion, for the Project to proceed prior to formal adoption of the new policy based on the on site replacement and inclusionary unit requirements. The Director of Beaches and Harbors was instructed to discuss onsite low income housing opportunities with the lessee of the project and bring back to the Board within 30 days an amended leasehold agreement, as necessary to ensure the project's consistency with the Mello Act.

- Following provisions of the Mello Act, the applicant conducted a detailed income survey of existing apartment tenants residing on the subject property to determine whether any of the existing dwelling units were eligible for replacement pursuant to Mello Act requirements. Based upon this analysis, the applicant determined that 38 units qualified as replacement units. The applicant also proposed 17 inclusionary units in addition to the 38 replacement units. The 38 replacement units were proposed for moderate income households; the 17 inclusionary units were proposed for very low income households.

- County Department of Regional Planning (DRP) and Community Development Commission (CDC) staff independently reviewed, and determined valid, the methodology and results of this tenant income survey. The CDC determined that 37 replacement units were required. The Commission also analyzed the Applicant's tenant income survey methodology and results and found the methodology and the 37 replacement units and 17 inclusionary units to be valid and in full compliance with the requirements of the Mello Act.

- Under California Environmental Quality Act (CEQA) guidelines, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the project. The Draft Environmental Impact Report (DEIR), dated September 2005, identified five potential impacts: aesthetics, air quality, geotechnical/soil resources/environmental safety, hydrology and water quality, noise, traffic/access, water service, sewer service and solid waste disposal. Recommended mitigation as presented in the Mitigation Monitoring Plan (MMP) address potential project impacts.

- The Commission found that the project complies with policies of the Marina del Rey Land Use Plan and provisions of the Marina del Rey Specific Plan as incorporated in the Marina del Rey Local Coastal Program

- The Regional Planning Commission approved the request and certified the environmental document on December 13, 2006.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Commission action does not conflict with the County's Strategic Plan Goals. The project provides affordable housing for moderate and very low income families consistent with the goal of Children and Families' Well-Being. Public Safety goals are augmented through conditions of approval and the Mitigation Monitoring Plan.

FISCAL IMPACT/FINANCING

Approving the aforementioned Coastal Development Permit, Variance and Parking Permit should not result in any new costs to the County or to the Department of Regional Planning; no request for financing is being made.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The applicant, Del Rey Shores Joint Venture, filed a Coastal Development Permit to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey Specific Plan. The subject property is located at 4201 Via Marina, Marina del Rey (Marina Parcels 100 and 101). The proposal consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline; a Parking Permit to utilize compact parking spaces. A total of 1,088 parking spaces will be provided within parking structures on-site, and a Variance for the construction and maintenance of signage in excess of County code requirements.

The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant subsequently withdrew this request and has agreed to provide 54 affordable housing units; these include 17 inclusionary units for very low income tenants and 37 replacement units for moderate income tenants.

The Regional Planning Commission held four public hearings on this request on January 25, 2006, March 1, 2006, April 19, 2006 and June 7, 2006. The first public hearing before the Regional Planning Commission on January 25, 2006, provided an opportunity for the County to reassess its Affordable Housing Policy for Marina del Rey. The County's public policy priorities shifted toward affordable housing on-site in new projects in the Marina.

On April 4, 2006 the Board of Supervisors adopted a motion that instructed the Chief Administrative Officer to form and lead a task force comprised of the Department of Regional Planning, Community Development Commission and County Counsel, working in conjunction with the Department to Beaches and Harbors. The purpose of this task force was to review the County's current affordable housing policy for Marina del Rey and recommend revisions necessary to ensure consistency with the Mello Act.

As further delay would cause a hardship to the applicant, the Board of Supervisors also authorized, as part of its motion, for the Project to proceed prior to formal adoption of the new policy based on the on site replacement and inclusionary unit requirements. Following provisions of the Mello Act, the applicant conducted a detailed income survey of existing apartment tenants residing on the subject property to determine whether any of the existing dwelling units were eligible for replacement pursuant to Mello Act requirements. Based upon this analysis Based on the foregoing criteria, the applicant determined that 38 units qualified as replacement units. The applicant also proposed 17 inclusionary units in addition to the 38 replacement units. The 38 replacement units were proposed for moderate income households; the 17 inclusionary units were proposed for very low income households.

The County Department of Regional Planning (DRP) and the Community Development Commission (CDC) staff independently reviewed, and determined valid, the methodology and results of this tenant income survey. In a letter dated May 30, 2006, to the Regional Planning Commission, the Los Angeles County CDC confirmed that it had conducted an audit of the tenant survey information submitted by Del Rey Shores. The CDC hired an independent consulting firm DRA, Incorporated, to review all files with CDC staff. While the audit determined that the replacement unit estimate was correct, there was further discussion regarding the counting of tenants covered by a rental agreement. It was subsequently determined that if only those tenants covered by a rental agreement are included, this would result in 37 replacement units; 37 moderate income replacement units were recommended.

Thoughout the hearing process, staff received letters and e-mails in favor and opposition to the request. Opposition comments included concerns about height and visual impacts, excessive density, increased traffic congestion, noise, traffic safety, impacts on local character, inadequate parking, impacts on local schools and hospitals, potential overcrowding of the proposed units, accuracy of the environmental document and objections to the original in-lieu fee request. Concerns were also expressed regarding the proposed grading, provision of a fire safety plan, compliance with the Mello Act and the county reviews of pending projects in

consistency with the Marina del Rey LCP. Another request was made to postpone the decision on the project until the county had addressed California Coastal Commission comments in its periodic review of the Marina del Rey LCP. Most opposition letters had addresses on Via Dolce, located within the city of Los Angeles.

The Commission determined that the applicant had responded satisfactorily to each of the above issues: environmental issues were adequately addressed in the Mitigation Monitoring Plan; the provision of affordable was reviewed by County Departments and found compliant with Mello Act Requirements and the applicant also provided further information in testimony responding to remaining issues. The Commission determined that the project was compliant with all applicable provisions of the Marina del Rey Local Coastal Program. Furthermore, a periodic review pf a Local Coastal Program by the California Costal Commission does not constitute a moratorium on development projects in Marina del Rey.

The Regional Planning Commission approval was appealed by People Organized for Westside Renewal and Richard I. Fine on January 11, 2007.

ENVIRONMENTAL DOCUMENTATION

Under California Environmental Quality Act (CEQA) guidelines, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the project. The Draft Environmental Impact Report (DEIR), dated September 2005, identified five potential impacts: aesthetics, air quality, geotechnical/soil resources/environmental safety, hydrology and water quality, noise, traffic/access, water service, sewer service and solid waste disposal. Recommended mitigation, presented in the Mitigation Monitoring Plan (MMP) address potential project impacts.

The Commission determined that the remaining, unavoidable environmental effects of the project have been reduced to an acceptable level and are outweighed by specific health and safety, economic, social and/or environmental benefits of the project as stated in the findings and in the Environmental Findings of Fact and Statement of Overriding Considerations adopted by the lead agency for the project, which findings and statement are incorporated herein by reference.

IMPACT ON CURRENT SERVICES

Action on the proposed Coastal Development Permit, Variance and Parking Permit is not anticipated to have impacts on current services.

Respectfully Submitted,

DEPARTMENT OF REGIONAL PLANNING
Bruce W. McClendon, FAICP
Director of Planning

Frank Meneses, Administrator
Current Planning Division

FM:RJF

Attachments: Commission Letter of Approval, Staff report and Attachments, Factual

C: Chief Administrative Officer
County Counsel
Assessor
Director, Department of Public Works

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Bruce W. McClendon FAICP
Director of Planning

December 21, 2006
Del Rey Shores Joint Venture
Attn. David Levine
4201 Via Marina
Marina del Rey, CA 90292

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Applicant:

SUBJECT: PROJECT NO. 2005-00234-(4)
COASTAL DEVELOPMENT PERMIT NO. 2005-00002-(4)
PARKING PERMIT NO. 2005-00004-(4)
VARIANCE NO. 2005-00004-(4)
4201 Via Marina (Parcels 100 and 101)
Marina del Rey

The Regional Planning Commission, by its action of December 13, 2006, **APPROVED** the above described Coastal Development Permit, Parking Permit and Variance.

The applicant or **ANY OTHER INTERESTED PERSON** may **APPEAL** the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Contact the Executive Office for the necessary forms and the amount of the appeal fee at (213) 974-1426. The appeal must be postmarked or delivered in person within 15 days after this notice is received by the applicant.

If no appeal is made during this 15-day period, the Regional Planning Commission action is final. Upon completion of the 15-day appeal period, please notarize the attached acceptance form and **hand deliver** this form and any other required fees or material to the planner assigned to your case. It is advisable that you **make an appointment** with the case planner to assure that processing will be completed expeditiously. If you have any questions regarding this matter, please contact the Zoning Permits II Section at (213) 974-6435.

Very truly yours,

DEPARTMENT OF REGIONAL PLANNING
Bruce W. McClendon, FAICP, Director of Planning

Russell J Fricano

Russell J. Fricano, Ph. D., AICP
Supervising Regional Planner
Zoning Permits II Section

RJF

Enclosures: Findings and Conditions, Mitigation Monitoring Plan, Affidavit (Permittee's Completion).

c: Board of Supervisors; Department of Beaches and Harbors; Department of Public Works (Building and Safety); Department of Public Works (Traffic and Lighting); Department of Public Works (Subdivision Mapping);Chief Administrative Office; Community Development Commission; County Counsel; Zoning Enforcement, Testifiers

Project No. R2005-00234-(4)
Coastal Development Permit No. 200500002-(4)
Parking Permit No. 200500004
Variance No. 200500004

Findings and Order of the Regional Planning Commission
COUNTY OF LOS ANGELES

REGIONAL PLANNING COMMISSION HEARING DATES: January 25, 2006, March 1, 2006, April 19, 2006 and June 7, 2006.

SYNOPSIS: The proposed project is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey Specific Plan. The proposal consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A Parking Permit is requested to utilize compact parking spaces. A total of 1,088 parking spaces will be provided within parking structures on-site. A Variance has been requested for the construction and maintenance of signage in excess of County code requirements.

The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant subsequently withdrew this request and has agreed to provide 54 affordable housing units; these include 17 inclusionary units for very low income tenants and 37 replacement units for moderate income tenants.

PROCEEDINGS BEFORE THE COMMISSION:

January 25, 2006 Public Hearing

A duly noticed public hearing was held on January 25, 2006. The public hearing opened with a presentation by staff. The Commission inquired about various issues related to the case: the overall height of the structure in reference to the height permitted in the Marina LCP; further questions pertaining to on-site parking; whether the Marina LCP permitted additional building area or density sufficient to provide additional affordable units; whether there were affordable units located in the existing apartment; an inquiry regarding trends of vehicles used in the Marina (to correspond to parking provided) and whether mixed use was proposed.

Proponent Testimony

Eight persons testified in favor of the request: the applicants, applicants' representatives, representatives of the Department of Beaches and Harbors and the Community Development Commission, a member of the Marina del Rey

Lessees association and the representative of a property owner within the vicinity of the site.

A managing partner of the proposed project initially provided testimony in support of the project. The applicant contended that the proposal was needed to respond to current market trends. Another partner stressed that the project would provide needed redevelopment for the area and would not exceed the requirements of the Marina del Rey LCP and would reduce impacts in comparison to maximum permitted build-out. He further commented that provision of affordable housing would be infeasible; the payment of the in-lieu would provide more affordable units for the public (outside of Marina del Rey) and generate funds for the Department of Health Services. The testifier also asserted that changes including elimination of direct access to Via Marina and a minor modification to on-site parking; these minor changes would not affect the conclusions of the DEIR. The applicant clarified that there are no affordable units at the existing Del Rey Shores apartment complex; mixed use is not permitted in the LCP; the apartment management contacted local residents regarding project impacts and plans were made to notify and meet with existing tenants.

The architect next testified; according to the testifier, compact parking was proposed to allow more space for landscaping; compact spaces are standard width, but shorter in length; the testifier also presented on-site landscaping and sidewalk width; the design of the project would propose a nautical theme which included a discussion of roof-top sail-like structures provided for aesthetic purposes. He also asserted that the Design Control Board accepted the design. The applicant's signage consultant next presented testimony. As part of his presentation the signage consultant presented renderings to the Commission. Another applicant informed the Commission that he could provide examples of signage comparable to signage proposed by the applicant. The Commission further inquired whether the proposal was consistent with the intent of the in-lieu fee ordinance and the purview of the applicant determining whether the fee was applicable. That applicant stressed that that additional ground rent generated by the project could provide funds for health care. In response to inquiries on the apartment parking, the applicant's architect further affirmed that the project was gated; this includes all parking.

Representatives of the Department of Beaches and Harbors and CDC presented testimony in favor of the request. The first testifier, representing Beaches and Harbors, asserted that the project provided refurbishment; that the apartment management exhibited sensitivity to tenants and the Design Control Board expressed its support of the project. The representative further contended that economic issues, consistent with the permitted density influenced development proposals in the Marina. He also noted that parameters were set with the applicant for consistency with the Marina LCP.

A representative of CDC also provided testimony in favor of the in-lieu fee request. He stressed that it would contribute to the construction of affordable units elsewhere, combined with other subsidies; in-lieu fees would apply to development projects within unincorporated Los Angels County (though not within three miles of the coast). The number of units could not be ascertained at this point.

A member of the Marina Lessees' Association presented testimony in favor of the request stating the project would provide redevelopment and much needed housing and is consistent with the Marina LCP. A representative of a lessee in the vicinity of the site also testified in favor of the request. However, the representative requested that a full analysis of sewer line capacity was missing from the Draft EIR (DEIR); there was also a discrepancy in the report cited in the DEIR and the report mentioned in the Appendix of the DEIR. A continuance was requested until the testifier had an opportunity to review the full report.

Opposition Testimony

Ten persons testified in opposition. Opposition testimony consisted of concerns expressed by environmental impacts, Plan Consistency and the provision of affordable housing

Environmental Issues and Plan Consistency

A representative of the homeowner's association for a project adjacent to the site testified in opposition noting a number of potential impacts: buildings would be nearer to homes and at higher elevations; impacts on sunlight, ocean air, traffic, water, and sewage disposal; capped oil wells and toxic waste were not adequately addressed. Another testifier contended that the project was presented pre-maturely due to a periodic review. The testifier also argued that further biotic analysis was required and traffic mitigation was not reasonable,

A resident of an adjacent project commented on the initial study and stressed that the analysis did not account for the loss in moderate income housing and displaced persons; according to the resident, cumulative impacts and biotic impacts should be further considered.

An attorney representing the homeowners to the rear of the property also testified in opposition. According to the testifier, the EIR is inadequate; LCP review is in process; it was suggested that the Commission wait until May when the review was complete. The LCP review conducted its own traffic study different than the one in the DEIR with different traffic estimates; a cap on vehicle trips precludes further development in the Marina. The testifier also claimed that the proposed building would be the second highest building in the Marina, in contrast to adjacent smaller condominiums and single-family residences. The

testifier also stated that the height of the building must be evaluated in terms of height above sea level.

A representative of a homeowner's association contended that the project was not consistent with prevailing development given its height and density; proposed building height poses wind and shade impacts; noise and air pollution impacts were also mentioned. The testifier further stressed impacts on privacy, curbside parking, traffic safety and infrastructure and services, given construction of other large projects in the area. The testifier also stressed that increased paving will exacerbate water runoff and flooding.

A representative of the Coalition to Save the Marina asserted that the Marina was originally intended for a small craft harbor, current trends in development are not consistent with this intent; furthermore, the Marina is public use; the testifier inquired how the Marina could be used to house private individuals on public land. The project also posed quality of life and infrastructure impacts. A representative of various environmental groups also questioned the adequacy if the DEIR in evaluating biotic impacts.

Affordable Housing

An attorney representing People Organized for West Side Renewal (POWER) testified in opposition to the in-lieu fee request. According to the opposition testifier: the replacement housing obligation of the Mello Act has been overlooked; the developer is replacing demolished units with market rate units which do not correspond to the household income of tenants in the existing building; a full study of the income of the tenants must first be conducted; if low or moderate income households occupy the units, a plan for replacing the units should be provided. The testifier also suggested that the County reduce ground-rents to make affordable housing feasible; according to the testifier, it is feasible to provide affordable units on-site.

Another testifier representing the Western Center on Law and Poverty claimed that an analysis regarding the feasibility of any off-site unit was not conducted. According to the testifier: the purpose of the Mello Act was to create new affordable units; the in-lieu fee can not cover the cost of 55 affordable units. The testifier further argued that the applicant did not conduct an adequate assessment of providing additional units to cover the cost of affordable units.

A local resident and member of POWER further testified that she had witnessed residents misplaced and rents have become less affordable. On-site affordable housing should be provided. Another member of POWER also testified that affordable housing is needed to protect the Coastal Zone from gentrification. The testifier also questioned the relationship between rent reduction and providing social services. The testifier also expressed concern about congestion.

At the conclusion of the January 25, 2006 hearing, the Commission requested that the applicant provide a detailed parking management plan and analysis of tandem parking. The Commission continued the public hearing to March 1.

March 1, 2006 Public Hearing

A duly noticed public hearing was held on March 1, 2006. The public hearing opened with a presentation by staff.

Proponent Testimony

Representatives of the applicant testified in favor of the request. A letter was submitted responding to comments at the hearing. According to the representatives, 68% of tenants drive compact cars; tandem parking couples standard with compact parking to the extent that length of spaces were sufficient for most vehicle combinations.

Regarding the sign Variance the representatives argued that many of signs in Marina are larger than what was being proposed. Signs and ornamentation are sculptural in nature.

Another representative stressed that the project provides more housing while remaining in scale with surrounding development. According to the testifier, the project applicant did not build out the project to the maximum height permitted in the Marian LCP; the project was 150 feet in height less than would be allowed in the LCP. The representative further contended that the project features an abundance of open space; shade and shadow diagrams indicate no significant shadows to the west.

The applicant and his representatives also responded to Commission inquiries relating to the parking management plan, availability of parking in the vicinity of the site, and clarification of architectural features. The Commission also requested further clarification regarding the functionality of architectural features.

Finally, the Director of Beaches and Harbors responded to issues regarding the availability of parking. According to the Director there is an abundance of public parking, though the parking lots in the Marina can reach capacity during special events. Under normal circumstances, parking is underutilized. He also clarified that parking is replaced on a one-to-one basis.

Opposition Testimony

The Legal Aid Foundation submitted a revised version of a prior letter. The letter included an addendum with the economic analysis of project rents and operating costs. According to the testifier, the applicant's analysis understated rent and overstated operating costs; with the full inclusionary package, the project can

realize a return on cost of 8.1%. The testifier also claimed that more financial data was needed; there was a requirement for building replacement units, and the applicant must survey the income of tenants already relocated. The testifier requested that no approval be granted until these issues were resolved.

An attorney representing POWER further testified that measures used by the developer and County were too simplistic. According to the testifier: the analysis of the applicant did not take into account time value of money nor does it acknowledge real estate asset value; the applicant needed to consider annual Internal Rate of Return, and more information was needed to analyze development costs.

One testifier contended that parking lots are not accessible to people who need them, especially for the elderly. Another testifier commented on a shortage of on-street parking; the parking plan as proposed by the applicant was not viable with too many tandem and compact parking spaces. There was a request for a new parking plan.

Testifiers comprised of local residents maintained that the DEIR was not properly prepared. The testifiers expressed concern regarding traffic safety and visual obstructions along Via Dulce, increased traffic; how earth will be transported and associated air quality impacts. Other issues mentioned included the adequacy of sewage disposal facilities, methane gas and the mitigation of oil wells.

An attorney representing adjacent homeowners commented on the following: The project is not consistent with development or traffic capacity specified in the Marina del Rey Local Coastal Program; the analysis of wind and seismic impacts were inadequate and a phase of required road improvements have not occurred. The testifier further claimed that the County is not obtaining maximum revenue from land value.

Proponent Rebuttal

In rebuttal, the applicant's representative asserted that the applicant will review information by housing advocates; impacts on cumulative growth were addressed in the DEIR; trip fees were incorporated into the mitigation measures; trip distribution were reviewed and approved by County staff; roadways are lightly traveled and were analyzed for safety issues; air quality standards will meet those of the region, with carbon monoxide below State and Federal standards; construction practices correspond to county codes; a cumulative sewer capacity analysis was provided in the DEIR; the City and County agree that sewer capacity is adequate; an analysis of methane gas indicated no detectable amounts and the development proposed for the project was well below the cap specified in the Marina del Rey LCP.

The Regional Planning Commission continued the Public Hearing to April 19 to allow further testimony on affordable housing and other issues.

April 19, 2006 PUBLIC HEARING

A duly noticed public hearing was held. The public hearing opened with a presentation by staff.

Proponent Testimony

A representative of the applicant claimed that the project would provide 10 exterior parking spaces. Also, due to issues raised at the previous hearing regarding Mello Act compliance, the applicant withdrew the in-lieu fee request to provide as an alternative, replacement and inclusionary units; the representatives also asserted that board of supervisors, in response to Mello Act concerns raised by POWER and other low-income housing advocates, the Board approved a motion to revise the county policy; the Board also passed a motion that allowed the Del Rey Shores project to proceed. The testifier further stated that the applicant had also gathered information on the existing tenants in the building and considered the economic impacts of providing affordable housing. The representative also asserted that based upon meeting with county staff and housing advocates, the applicant will re-survey all 265 existing tenants to accurately calculate the housing replacement obligation under the Mello Act. A final draft survey was proposed. To allow sufficient time to complete the survey and respond to issues a continuance to May 17 was requested.

Another testifier represented a lessee in the vicinity of the site (Espirit project). The testifier acknowledged that the applicant had provided a Fire Safety Plan and had revised the project description regarding grading. The testifier stressed a 50% increase in grading and increase the volume of grading exported. The testifier requested a grading plan. An analysis of trunk line sewers was also requested. The testifier also requested conditions regarding the applicant's participation in the Coastal Improvement fund and also restricted hours for pile driving.

Opposition Testimony

A testifier of the Legal Aid Foundation representing the Western Center on Law and Poverty (WCLP) and POWER expressed concerns with the tenant survey proposed by the applicant; the applicant has not examined the incomes of tenants who were relocated. The testifier also wanted to ensure that updated data was used in the survey. The testifier also objected to replacement of the low and moderate income units with moderate income replacement units, which she contended was unlawful under the Mello Act. The applicant should also look at tenant income and not monthly housing costs; consider units occupied by management employees; 14 vacant units should be included in the new survey

and students occupying units should also be considered. The testifier also requested more information regarding the criteria the applicant used to define household or family.

A representative of the WCLP questioned the applicant's interpretation of county density bonus provisions in determining the provision of affordable housing and feasibility; according to the testifier, the applicant has not provided sufficient information to justify why 5% of very low units were provided rather than 10%. The testifier requested that the applicant's current proposal should be denied.

A financial consultant representing POWER contended that the applicant's approach was simplistic; overly-conservative, did not consider the time value of money and disregarded capitalization of the project. Using methodology used by the applicant, the testifier found that the provision of 10% very low income inclusionary units and 30 moderate income replacement units are feasible. The testifier also questioned the developer's threshold of return on cost of 8% versus 7% which the testifier believed was the correct measure. The testifier claimed the developer's approach would lead to a loss in full lease rate of 10.5 % of the land and a loss in 22 very low income inclusionary units. Further testimony also asserted that the Mello Act requires that low-income units be provided on-site to the greatest extent feasible.

Other testimony questioned the adequacy of the EIR. According to the testifier development permitted in the Via Marina Development Zone was miscalculated. the testifier questioned the decrease in units. The testifier also claimed that the EIR manipulated data in favor of an alternative that provided no affordable housing. This analysis also included trip generation and air quality.

A resident of a neighborhood in the vicinity of the project (Oxford Triangle) requested notification of neighborhood councils of development proposals. The testifier also expressed concerns about a sewer problem, particularly storm water runoff in the area. Another testifier expressed opposition due to displacement of residents from redevelopment activity and traffic on Lincoln Boulevard.

An attorney representing a development within the vicinity of the site requested delay of the decision until responses to the Marina LCP review were released. He also proposed that a form by used to track all development The testifier also stressed a discrepancy existed between unit counts and traffic projections conducted by Crain and Associates (used in the Draft Environmental Impact Report) versus those used by the Los Angeles Department of Transportation.

Proponent Rebuttal

A representative of the applicant asserted that the replacement of housing units in kind was not consistent with settlement agreement with the city of Los Angeles. The testifier disagreed with the concept that affordable housing be

provided "to the greatest extent feasible" was not consistent with the Mello Act which uses "where feasible". Considering project finance issues, this threshold is practical.

Letters submitted responded to comments regarding sewer and water capacity; The Department of Public Works has given the applicant a Will Serve letter. The force main is in the process of being upgraded. The applicant will submit a grading plan to confirm the amount of the grading. The representative also contended that the Final EIR will address impacts of the export of dirt from the site.

Following rebuttal testimony, the Commission requested that the Department of Pubic Works provide a timeline and capacity on force main responding to concerns expressed in testimony. The Regional Planning Commission continued the Public Hearing to June 7, 2006, to respond to some of the issues expressed in testimony and allow further testimony on affordable housing and other matters.

June 7, 2006 Public Hearing

A duly noticed public hearing was held. The public hearing opened with a presentation by staff.

Proponent Testimony

The project applicant apprised the Commission of work on a variety of issues related to Mello Act compliance. This included the issuance of a tenant income survey, providing information of financial feasibility of on-site affordable housing. The attorney further stated that based upon working with staff and an extensive survey of jurisdictions throughout the state the proposal is fully consistent with the letter and spirit of the Mello Act and is fully reflective of information provided in the tenant income survey. The number of replacement and inclusionary units constituted 10% of the total units. The testifiers further clarified their previous statements on Mello Act issues with the Commission.

Opponent Testimony

An attorney of the Legal Aid Foundation representing POWER and the WCLP provided further commentary. According to the testifier, the applicant proposal of 38 units was a "step backward" in that the applicant reduced very low income units from 24 to 17; the applicant traded provision of very low income units on a one-for-one bases with moderate income replacement units; the applicant reduced the number of affordable bedrooms from 82 to 73 and affordable units from 56 to 55. The testifier further urged the commission to provide replacement units on a one-for-one basis and like-for-like income units targeted to the income level of units lost. Another testifier representing POWER argued that based upon

the income survey, a market rate of return and lease rates, it is feasible for the applicant to provide 54 inclusionary units and 38 replacement units.

Another testifier from the Legal Aid Foundation stressed that it was within the Commission's purview to extend its consideration beyond land use issues to consider economic data, lease rates and other information related to feasibility of complying with the Mello Act.

A representative of the Marina Strand Colony II Homeowner's Association inquired on the status of responses to environmental issues which included traffic and deficiencies in the Draft EIR. Staff responded that all environmental issues will be responded to in the Final Environmental Impact Report.

An organizer for POWER next testified that the applicant's latest proposal provided nine fewer bedrooms, which included a substantial shift of very-low income units to moderate income units. According to the testifier, the previous proposal offered significantly more affordable units. The testifier also requested the any future proposals by the applicant be made public two weeks prior to the hearing date.

An attorney for the Marina Strand Colony asserted that no notice was given to his clients regarding a Design Control Board hearing on this matter and requested that issues relating to visual impacts be referred back to the Design Control Board. His clients wish to provide documentation of visual impacts on Via Marina and Ballona Creek.

The testifier also stressed that the issue regarding Marina Development caps have not been resolved and that individual surveys be done of each project. The testifier felt the cap has been exceeded and cited a report from the City of Los Angeles.

According to the Commission's request, the Director of Beaches and Harbors testified that the development proposal before the Commission is well below the cap specified in the Marina LCP.

Proponent Rebuttal

In rebuttal, an attorney for the applicant commented that the project would provide an unprecedented amount of replacement and inclusionary housing; the burden requested by the applicant would be excessive and infeasible. The attorney also asserted that regarding the issue of like-for-like replacement of affordable units, the City of Los Angels settlement agreement, supported by the housing advocates did permit replacement of very low income with moderate income units; the policies of other jurisdictions were reviewed as well. He also contended that the Mello Act defines the extent of providing affordable housing "where feasible" not to the maximum extent. The testifier further claimed that the

rents used in the analysis presented by the housing advocates are much higher than the rents that the county, market research and third party appraisal had verified. Operating and construction costs are also lower.

Considering other issues the testifier stressed that both the developer and the county (acting in a proprietary capacity) share a responsibility in providing affordable housing; the applicant did listen to request to do a tenant income survey and based on the results of this survey, the number of inclusionary units required were less; all environmental issues were addressed at the hearing will be responded to the Final EIR, including visual and sewer-related impacts; analysis has determined that the project is well below the trip. A representative of the project also asserted that the Design Control Board meeting was adequately noticed and that, in his opinion, the project is consistent with the Mello Act.

In response to a Commission inquiry, the applicant further contended that the change in affordable units was based on an evaluation of feasibility; the applicant must meet a debt-service coverage ratio to obtain a loan. The subsidy for very low income units has increased from a prior proposal due to requirements based on different income level standards.

Conclusion

The Commission further clarified that the county is not a co-developer of the project. The Commission then asked County Counsel to clarify the draft Marina del Rey affordable housing policy as it reflected the project.

County Counsel first asserted that while the Coastal Commission is reviewing the LCP and may be providing the comments it does not impede the Commission ability to review the project under the existing LCP. In addition, County Counsel further commented that the Board of Supervisors in their motion of April 4, 2006, bi-furcated Marina Affordable housing policy separate from the Del Rey Shores project.

Nothing in the Mello Act suggests that obligation to provide affordable housing in the Coastal zone is to the maximum extent feasible. The Mello Act requires that on-site inclusionary housing "where feasible". If it's not feasible, the applicant is required to look within three miles of the Coastal zone. It does not push developers to the brink of infeasibility. Under the Mello Act there may be situations where no low-income housing is provided in the coastal zone.

County Counsel also asserted that it is impossible and unreasonable to suggest that replacement is entirely separate and apart from the obligation for inclusionary; they are not to be considered separately.

Regarding the applicant's calculation of inclusionary housing, the applicant conducted a survey that was audited by the CDC and calculated for the survey the number of replacement units. The formula used by the applicant is reasonable and supported by the Mello Act; furthermore the Mello Act supports the approach of replacing units with low-income tenants with moderate income units.

On a Motion by Commissioner Rew seconded by Commissioner Bellamy the Regional Planning Commission closed the hearing and expressed their intent to approve the project, for staff to prepare final conditions to include additional conditions that were recommended by staff in their report and to prepare the Final environmental document.

Findings

1. The applicant has requested a Coastal Development Permit for the demolition of the existing apartment and replacement with the proposed 544 unit apartment; a Variance for the installation of sign area and size requirements in excess of Los Angeles county code, and a Parking Permit for the provision of compact parking for a portion of the on-site apartment parking.

   The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant withdrew this request and will provide 37 replacement units and 17 inclusionary units.

2. The subject property is located at 4201 Via Marina in Marina del Rey (Parcels 100 and 101). The project site is bounded by Via Marina to the east, Dell Avenue to the west and Marquesas Way to the south. The property is also located in the Playa del Rey Zoned District.

3. The subject property is located on level terrain in a highly urbanized area devoted primarily to condominium and multi-family residential use.

4. The subject property is zoned "Specific Plan" within the Marina Del Rey Local Coastal Program (LCP). This corresponds to a designation of "Residential V".

5. Zoning on the surrounding properties consist of the following:

   North: Residential V

   South: Open Space

   West: City of Los Angeles

East: Residential IV and Open Space

6. A 202-unit apartment complex currently exists on the subject property.

7. Land Use on surrounding properties consist of the following:

   North: Multi-family Residential

   South: Vacant

   West: Condominiums

   East: Multi-Family Residential and Open Space

8. Three Plot Plan cases were previously filed on the subject property; two under the same project number. Each is listed in chronological order.

   Plot Plan 16912

   Applicant: Del Rey Shores North.

   Description: Plot Plan to authorize development on northerly parcel. The Plot Plan was approved April 29, 1968.

   Plot Plan 27118

   Applicant: Del Rey Shores.

   Description: Plot Plan to authorize car ports. Plot Plan was approved February 20, 1975

   Plot Plan 27118

   Applicant: Del Rey Shores.

   Description: Plot Plan to authorize an office manager's apartment. Plot Plan was approved October 30, 1984

9. No record of enforcement action was found.

10. The site plan depicts a proposed 544 unit apartment consisting of 12 buildings 75-feet in height, five stories of apartments over two levels of parking. Architectural features extend approximately 25 feet above the roofline for the purpose of screening roof-top equipment.

The primary entrance to the apartment complex fronts Panay Way and Via Marina. Tenant parking takes access off Dell Avenue to the rear of the structure through three ramps; tenant parking has gated access. The two levels of parking consist of one subterranean level. A total of 1,088 parking spaces will be provided throughout the project; 328 of these spaces are allocated to compact parking; 742 spaces are standard and 18 spaces are allocated to handicapped parking.

11. The Marina del Rey Local Coastal Program (LCP) provides development guidelines for the unincorporated community of Marina del Rey. The Marina del Rey LCP consists of two sets of inter-related requirements: the Marina del Rey Land Use Plan (land use policies) and the Local Implementation Program or Specific Plan (development-specific requirements). The following analysis identifies policies in the Marina del Rey Land Use Plan applicable to this proposal.

12. The subject properties is designated "Residential V" in the Marina del Rey Land Use Plan. The Marina Land Use Plan specifies

    "...high density multi-family residential development up to 75 dwelling units per net acre. Height limit is 225 feet."
    (Page 8-10, Marina del Rey Land Use Plan, February 8, 1996).

13. The subject property is also located within the Via Marina Development Zone. The project is consistent with height requirements for this zone.

14. As specified in Section 22.46.1380 of Los Angeles county code, the Residential V category is intended:

    "...as a high-density residential category permitting up to 75 dwelling units per net acre."

    The proposed project meets density requirements of this category.

15. The Marina del Rey Specific Plan lists "Multi-Family dwellings no more than 75 dwelling units per acre" as a permitted use in the Residential V category (Section 22.46.1310 (A). The proposed project is consistent with this requirement

17. Under Section 22.46.1210 (B) principal permitted uses require a Coastal Development Permit unless they are specifically exempted or categorically excluded. These provisions do not exempt this proposal

18. Section 22.46.1330 specifies development standards for all uses in the Residential V category. Applicable requirements are listed as follows:

Height: Building height is limited to a maximum of 225 feet; The proposed apartment is 75 feet in height. Architectural features on the roof are approximately 25 additional feet above the roof line. Regardless, the overall height of 100 feet, which includes the architectural ornamentation, the proposed development is well below the maximum height of 225 feet and is in compliance.

Density: Dwelling Unit Density shall not exceed 75 units per acre. The project proposes 544 units on 8.31 acres. This amounts to a project density of 65 units per acre. Project density complies with the specific plan.

Setbacks: Front and Rear yard setbacks shall be a minimum of 10 feet in addition to the required highway and promenade setback. Side yard setbacks shall be a minimum of five feet. Front, rear and side yard setbacks comply.

19. According to Section 22.46.1060 (A) of the Marina del Rey Specific Plan, landscaping shall be provided to prevent erosion. The applicant has provided sufficient landscaping within the central courtyard of the site and along the boundaries and edges facing public streets. Dell Avenue is a service street providing access to the rear of the property.

20. Section 22.46.1060 (B) specifies lot coverage not to exceed 90% of net area. A minimum of 10% of the net area is required to be landscaped. Lot coverage on the proposed project is approximately 38% considering the building foot print. The applicant has provided 25% of landscaping. In both cases the site plan is sufficiently over minimum required standards.

21. Section 22.46.1180 requires that an application for new development shall provide the following information.

    A. Protection and Enhancement of Shoreline Access and Views: This requirement is intended for shoreline development, located between the shore and the first public road, to ensure that visitors have adequate visual and shoreline access. As the project is located westerly of Via Marina, this requirement is not applicable.

    B. Wind Study: A Wind Study was conducted by Rowan, Williams, Davies and Irwin, dated March 30, 2005. Wind Roses (patterns) were also provided and used in the analysis. The analysis concluded that the proposed project would not significantly affect wind conditions in Marina del Rey.

    C. Avoidance and Mitigation of Geologic/Geotechnical Hazards: The Environmental Impact Report analyzed potential impacts from

Geologic/Geotechnical Hazards; these were determined to be less than significant.

D. Protection of Cultural Heritage Resources: An apartment building has already been established on-site; The Initial Study did not indicate potential cultural impacts.

E. Avoidance and Mitigation of Flood Control Hazards: Hydrology impacts were analyzed in the Draft Environmental Impact Report. Mitigation measures including Best Management Practices were recommended. With mitigation the project impacts were determined as less than significant.

F. Protection of Gas Company Facilities: The project does not pose any impacts to Gas Company Facilities.

G. Conformance with Development Phasing Plan: The project will generate a net increase of 342 units. Section 22.46.1910 of the Marina Specific Plan allocates 530 dwelling units to the Via Marina Development Zone (Zone 12). According to estimates conducted by the Department of Public Works no increases in dwelling units occurred in Zone 12 since the certification of the Marina del Rey Local Coastal Program (LCP). The increase in dwelling units is within the specified limits.

H. Direct Traffic Mitigation: The Environmental Impact Report recommends localized widening of Lincoln Boulevard and the installation of a northbound, right-turn-only lane on Mindanao Way, consistent with the improvement for this intersection as identified in the Marina del Rey Specific Plan Transportation Improvement Plan (TIP).

I. Mitigation of Cumulative Impacts of the Subregional Traffic System: The Environmental Impact Report also recommended that the applicant pay a Traffic Mitigation Fee that funds cumulative impact mitigation, and to pay its fair share of certain transportation improvements at intersections that are not wholly controlled by the County should the County and the other jurisdictions agree on a funding mechanism.

22. A Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking. According to the applicant, the request is needed to maximize on-site parking and to provide more space for landscaping.

23. According to Section 22.52.1180 of Los Angeles County code, parking spaces for apartments shall be standard size unless compact are allowed by a Parking Permit. Of the 1,088 parking spaces, 742 standard parking spaces and 328 compact spaces are proposed. Of the 1,088 spaces, 514

spaces are proposed in a tandem configuration. To fulfill the requirements of County Code the applicant must substantiate that that the proposed apartments have a parking management program to ensure the efficient distribution of spaces.

24. According to the commission's request, the applicant provided a parking management plan and more detailed renderings of the proposed parking. A written parking analysis and management plan was submitted by the applicant's consultant Walker Parking Consultants in the report, "Shores Apartment Complex Project: Parking Management Plan." dated, February 15, 2006. The report covered proposed parking layout, security, method of operation and parking space allocation. The report was submitted to the Commission's satisfaction.

25. The applicant has requested a Variance for the construction and maintenance of signage in excess of Los Angeles county code requirements. Signage is concentrated primarily on the northeasterly portion of the site. The Variance is needed to provide visibility to prospective tenants, some of which will require affordable housing, and to allow a similar right enjoyed by comparable projects within the vicinity of the site.

26. Section 22.46.1060 (D) (2) refers sign regulations of each Marina del Rey land use category to those of a particular zone. Standards for Residential V follow R-4 zoning requirements. According to Section 22.52.930 of Los Angeles County code, one wall mounted business identification sign, not to exceed six (6) square feet in sign area shall be permitted,

27. In a presentation to the Commission the applicant's representative provided detailed renderings of the proposed signage. Examples of comparable signage within the vicinity of the project have also been provided. The Commission determined that the information provided was sufficient to substantiate the applicant's request.

28. The Marina del Rey Specific Plan requires that signs shall be detailed as possible without becoming unreadable. The Design Control Board regulates signage through its "Revised Permanent Sign Controls and Regulations" (Section 22.46.1060 (D) (1)).

29. The subject signage was reviewed by the Design Control Board. The design of the sign is readable. Design of the signage will conform to Design Control Board requirements.

30. The proposed Project is subject to California Government Code Sections 65590 and 65590.1 (the "Mello Act" of 1982), which provide, in pertinent part, that, within the Coastal Zone: (a) the demolition of existing residential dwelling units occupied by persons and families of low- or moderate-income

shall not be authorized unless provision has been made for the replacement of those dwelling units for persons of low- or moderate-income (i.e., "affordable replacement" dwelling units); and (b) new housing developments shall, where feasible, provide housing units for persons and families of low- or moderate-income (i.e., "affordable inclusionary" dwelling units).

31. In 2002 the Board of Supervisors adopted a policy that implemented Mello Act requirements unless a developer could prove that the provision of affordable units on site would make the project infeasible and there was no means for the county to make economic concessions to accommodate the affordable units on-site.

32. The Applicant originally proposed to pay an in-lieu fee of approximately $3.8 million in accordance with the 2002 County Affordable Housing Policy for Marina del Rey. This policy, which was in place four years ago when the applicant first signed a term sheet, reflected County public policy priorities and objectives at that time.

33. The applicant submitted a letter dated November 17, 2005 to the Department of Regional Planning, Beaches and Harbors and the Community Development Commission. This letter presented a formal request to pay an in-lieu fee in concert with the County's policy. The letter provided an analysis to support the infeasibility of providing 10% of affordable units; the letter presented problems associated with a range of alternatives including rent reduction, density bonus, below-market bond financing and tax credits. The applicant requested consideration by the County agencies that the fee would be utilized for providing affordable housing elsewhere in the county.

34. The first public hearing before the Regional Planning Commission on January 25, 2006, provided an opportunity for the County to reassess its Affordable Housing Policy for Marina del Rey. The County's public policy priorities shifted toward affordable housing on-site in new projects in the Marina.

35. On April 4, 2006 the Board of Supervisors adopted a motion that instructed the Chief Administrative Officer to form and lead a task force comprised of the Department of Regional Planning, Community Development Commission and County Counsel, working in conjunction with the Department to Beaches and Harbors. The purpose of this task force was to review the County's current affordable housing policy for Marina del Rey and recommend revisions necessary to ensure consistency with the Mello Act. The Board also directed the task force to report back within 60 days with a revised affordable housing policy for review and further recommendations.

As further delay would cause a hardship to the applicant, the Board of Supervisors also authorized, as part of its motion, for the Project to proceed prior to formal adoption of the new policy based on the on site replacement and inclusionary unit requirements. The Director of Beaches and Harbors was instructed to discuss onsite low income housing opportunities with the lessee of the project and bring back to the Board within 30 days an amended leasehold agreement, as necessary to ensure the project's consistency with the Mello Act.

36. The County is currently in the process of developing a new policy. It is anticipated that the Board of Supervisors will adopt this new policy in 2007, after further consideration and public input.

37. The applicant submitted a letter dated April 10, 2006, requesting to withdraw their application for payment of an in-lieu fee.

38. The applicant informed the Commission that it would conduct a detailed income survey of existing apartment tenants residing on the subject property to determine whether any of the existing dwelling units were are eligible for replacement pursuant to Mello Act requirements.

39. On May 22, 2006, the applicant submitted a letter summarizing the process for determining affordable replacement units. The applicant prepared a Coastal Housing Tenant Questionnaire and Tenant Financial Information Form following guidelines prescribed by the Affordable Housing Task Force for Marina del Rey.

40. The applicant's tenant income survey included mailing by certified mail a County-approved questionnaire and tenant financial information form to each of the tenants of the existing Del Rey Shores Apartment complex developed on the subject property. The applicant followed up by telephone with all tenants who did not respond to the mailed survey, using a County-approved telephone script to elicit tenant responses.

41. County Department of Regional Planning (DRP) and Community Development Commission (CDC) staff independently reviewed, and determined valid, the methodology and results of this tenant income survey. The Commission also analyzed the Applicant's tenant income survey methodology and results and finds them to be valid and in full compliance with the requirements of the Mello Act.

42. The Mello Act does not set forth specific procedures for determining replacement units. Rather, the Act provides local jurisdictions with the discretion to implement the Act's requirements. For the proposed Project, the number of replacement units was determined based on data from the tenant income survey, guidelines for analyzing the survey information from

the County's Mello Act Compliance Task Force and criteria for determining replacement units from the County Chief Administrative Office.

43. The Task Force established a three-step approach to determine replacement unit status: 1) Current tenant income information from the tenant survey must be used; 2) If the tenant does not return the survey after the requested return date, despite follow-up telephone calls, the guidelines require the use of tenant income information less than two years old on file with the landlord, and, 3) When this information is not available, the rent for the unit is to be compared to the 2006 affordable rent levels established by the State Department of Housing and Community Development (DHCD); in these cases, any unit rents that are below the moderate-, low- or very low-income levels defined by the DHCD would be cause for replacement.

44. For the proposed Project, the tenant income survey disclosed that some of the existing apartment units are occupied by resident managers, sub-tenants, students claimed as dependents by their parents or whose parents guarantee the lease. Other units are vacant.

45. The Mello Act does not prescribe how local jurisdictions are to assess replacement unit eligibility in instances when existing units are occupied by resident managers, sub-tenants, students claimed as dependents by their parents or whose parents guarantee the lease, or for vacant units. The Task Force concluded that such units were not subject to the Mello Act's replacement unit obligation, for the following reasons:

Resident managers are employees and are not typically considered tenants under landlord-tenant law. Units with resident managers were excluded because the Mello Act focuses on providing replacement units for units occupied by tenants, not employees;

The landlord does not have a contractual relationship, and may not even be aware of sub-tenants. It would not be fair for landlords to have to provide replacement units for sub-tenants. Furthermore, it may not be feasible to obtain financial information from individuals not named on the lease;

Students who are financially dependent on their parents generally have far greater financial resources than the low- and moderate-income tenants that the Mello Act is intended to address. Moreover, by providing parent financial information or guarantees, the students are using their parent's financial resources to induce the landlord to rent the unit. It would not be fair to ignore this information for the purposes of determining replacement unit status; and

The Mello Act expressly limits the replacement unit obligation to those units which are actually occupied by low- or moderate-income tenants.

Consistent with the Mello Act, the Task Force reviewed all evictions from the existing units since May 1, 2005. The Applicant provided copies of court judgments showing that the two evictions during this period were for nonpayment of rent.

46. The Mello Act provides that if an existing unit is occupied by more than one person or family, the replacement housing obligation is required if at least one person or family is of low- or moderate-income. However, the Mello Act does not prescribe how the replacement housing obligation applies to portions of units.

47. For the proposed project, the Task Force determined that in the two cases where two unrelated people occupied a two-bedroom unit, but where only one of the persons in each such unit was of low- or moderate-income, the replacement obligation shall be two one-bedroom units rather than two two-bedroom units. The Commission finds this to be consistent with the Mello Act.

48. Based on the foregoing criteria, the applicant determined that 38 units qualified as replacement units.

49. In a letter dated May 30, 2006, to the Regional Planning Commission, the Los Angeles County CDC confirmed that it had conducted an audit of the tenant survey information submitted by Del Rey Shores. The CDC hired an independent consulting firm DRA, Incorporated, to review all files with CDC staff. While the audit determined that the replacement unit estimate was correct, there was further discussion regarding the counting of tenants covered by a rental agreement. It was subsequently determined that if only those tenants covered by a rental agreement are included, this would result in 37 replacement units; 37 moderate income replacement units were recommended. These include 27 one-bedroom and 10 two-bedroom units. The Commission concurs with the provision of 37 replacement units.

50. The Mello Act states that units occupied by low- or moderate-income persons or families may not be converted or demolished "unless provision has been made for the replacement of those dwelling units with units for persons or families of low or moderate income." The Commission does not interpret this language as requiring a "like-for-like" replacement (i.e., replacing existing dwelling units with new units at the same affordable income level). The Commission therefore finds that the Task Force's recommendation that all of the proposed Project's 37 replacement units be made affordable to individuals or households with moderate incomes, as defined in Health & Safety Code Section 50093, to be fair, reasonable and consistent with the Mello Act.

51. The Applicant's provision of 37 affordable replacement dwelling units in the proposed Project is in full compliance with Mello Act requirements. The Commission has conditioned its approval of the Project 'Coastal Development Permit to require the Applicant to enter into a covenant with the County stipulating that these 37 affordable replacement dwelling units shall be maintained on the Property at the moderate-income affordability level for a term of no less than 30 years. Such covenant shall stipulate that the affordable replacement dwelling units be reasonably dispersed throughout the Project and provided within three years of commencement of demolition of the existing units.

52. The Mello Act does not specify a formula, specific number or percentage of required affordable inclusionary dwelling units; the Act requires only that these units be provided "where feasible." Nor does the Mello Act require that these units be set aside for a particular income category (i.e., low- or moderate-income). The Task Force has found that a survey of other cities and counties in the coastal zone shows that different jurisdictions have established different approaches to meeting the Mello Act's inclusionary unit requirements.

53. The current County Affordable Housing Policy for Marina del Rey includes a goal of 10 percent low-income units. The 10 percent goal does not, however, take into account the Mello Act's replacement housing obligations. The Mello Act clearly requires housing developments to provide on-site inclusionary units only "where feasible." The determination of whether it is feasible to provide affordable inclusionary dwelling units must necessarily take into account a project's replacement housing obligation, because the number of replacement units required will have a direct bearing on the feasibility of providing inclusionary units.

54. The proposed Project will provide seventeen (17) very low-income inclusionary units, which represents five percent of the net incremental new units to be constructed on the Project site.

55. The proposed project requests authorization for the demolition of 202 existing units and redevelopment of 544 units on the same site, an incremental increase of 342 units. Throughout the environmental review process, the impact of the Project has been consistently defined by an evaluation of the incremental (or "net") increase between the existing project and the proposed project. Furthermore, as described above, the 202 existing units are subject to the replacement unit requirements of the Mello Act, which assures that the Project will include that same number of affordable housing units as currently exist at the site. Further, as noted above, the Mello Act does not specify any formula for complying with the inclusionary requirement. Therefore, the Commission finds that it is fair, reasonable and consistent with the Mello Act to determine the appropriate

number of affordable inclusionary dwelling units, "where feasible," based upon the net increase in the number of units attributable to redevelopment; for the proposed Project, this net increase amounts to 342 units.

56. As noted above, the proposed Project will provide all 17 inclusionary units at rent levels affordable to very low-income individuals and households. This approach is consistent with current State density bonus law, which requires a density bonus for projects that either provide 10 percent of the units as low-income units or 5 percent as very low-income units. Also, in providing very low-income housing on-site, the proposed Project will address members of the population most in need of affordable housing.

57. The Mello Act requires the County to offer density bonuses and other incentives to assist in providing new affordable housing unit. However, the Commission finds that a density bonus is not feasible in this case because: 1) 544 is the maximum number of dwelling units that can be built using the proposed type of construction; a larger project would require a different and significantly more expensive type of construction, which would adversely impact feasibility; 2) 544 units is well within the parameters for density and height as called for in the Marina del Rey Local Coastal Program; and 3) unlike the proposed 544-unit Project, the construction of a project with more than 544 units would have the potential to impact the character of Marina del Rey and result in significant environmental impacts, including traffic and other infrastructure impacts. The Commission has rejected as infeasible the density bonus alternative set forth in the Project EIR.

58. The Mello Act requires projects to provide on-site affordable inclusionary units only where feasible. The Mello Act defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, social, and technical factors." The county-sanctioned analysis has determined that it is feasible for the Applicant to provide 17 very low-income units on-site.

59. The Commission finds that the on-site provision of 17 very low-income inclusionary units is in full compliance with Mello Act requirements. The Commission has conditioned its approval of the Project Coastal Development Permit to require the Applicant to enter into a covenant with the County stipulating that these 17 affordable inclusionary dwelling units shall be maintained on the Property at the very low-income affordability level for a term of no less than 30 years, and that these units shall be reasonably dispersed throughout the Project.

60. The Commission further finds that, with the applicant's on-site provision of 37 moderate-income replacement units and 17 very low-income inclusionary units (totaling approximately 10 percent of the new units), the proposed Project fully complies with the Mello Act.

61. A legal notice was published in the local newspaper, *The Argonaut*, on December 1, 2005. Staff also mailed out 1,798 hearing notices on December 7, 2005 to property owners and tenants within 500 feet of the site and interested parties. The applicant posted a hearing notice sign on the subject property prior to 45 days before the public hearing.

62. Staff received letters and e-mail in opposition to the request, with concerns about height and visual impacts, excessive density, increased traffic congestion, noise, traffic safety, impacts on local character, inadequate parking, impacts on local schools and hospitals, potential overcrowding of the proposed units, accuracy of the environmental document and objections to the original in-lieu fee request. Concerns were also expressed regarding the proposed grading, provision of a fire safety plan, compliance with the Mello Act and the county reviews of pending projects in consistency with the Marina del Rey LCP. Another request was made to postpone the decision on the project until the county had addressed California Coastal Commission comments in its periodic review of the Marina del Rey LCP. Most opposition letters had addresses on Via Dolce, located within the city of Los Angeles.

63. Staff received comments from the City of Culver City in a letter dated, January 18, 2006. The letter questioned certain sections of the visual and traffic analyses, requested better specificity of road improvements and recommend the adoption of a Statement of Overriding Considerations.

64. The applicant has provided a fire safety plan to County Fire and an updated grading plan to the Department of Public works for review.

65. As previously determined in Finding 21 (G), the project will generate a net increase of 342 units. Section 22.46.1910 of the Marina Specific Plan allocates 530 dwelling units to the Via Marina Development Zone (Zone 12). According to estimates conducted by the Department of Public Works no increases in dwelling units occurred in Zone 12 since the certification of the Marina del Rey Local Coastal Program (LCP). The increase in dwelling units is within the specified limits.

66. The California Coastal Commission does not impose a moratorium on development proposals during the period it provides and receives comments on the implementation of a Local Coastal Program.

67. Under California Environmental Quality Act (CEQA) guidelines, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the project. The Draft Environmental Impact Report (DEIR), dated September 2005, identified five potential impacts: aesthetics, air quality, geotechnical/soil resources/environmental safety, hydrology and

water quality, noise, traffic/access, water service, sewer service and solid waste disposal. A summary of the impacts, recommended mitigation as presented the Mitigation Monitoring Plan (MMP) and determination of potential significance is provided as follows:.

A. Aesthetics: The height of the proposed apartment structures are out of character with existing development located to the south; however, the proposed structures also comply with height requirements of the Marina Specific Plan. A tall apartment building is also located northerly of the site; this building exceeds the height of the subject apartments by several stories. The DEIR also noted that the project was reviewed and approved by the Design Control Board. Further analysis was conducted by the applicant regarding shading and shadows of the structure. indicating shadow effects at various times of the day. Report relied on city of Los Angeles thresholds as westerly structures are located in the city of Los Angeles. While some shading was estimated before 9:00 a.m. these impacts were not determined significant. Overall, no significant impacts were determined regarding aesthetic impacts.

   Furthermore, the applicant provided maps clarifying distances between structures; Distances ranged from 71' – 87'. Maps were also submitted indicating the permissible heights and heights of approved projects. The height of the structure on Parcel 103 was at a greater elevation; those to the west were lower.

B. Air Quality: The DEiR notes air quality impacts generated by emissions from demolition and construction and project operation. Recommended mitigation includes a construction management plan, plans for dust abatement, methods that re-reroute or reduce construction-related trips. Conditions of approval also provide measured for controlling dust and emissions. Air quality impacts related to construction are determined to be significant and unavoidable. Air Quality impacts are temporary.

C. Geotechnical Impacts: The project can potentially encounter seismically-induced impacts that can occur throughout the Marina. These include ground shaking and liquefaction. The MMP lists mitigation that controls erosion and drainage. Also presented were conformance with building codes, a pile foundation system and testing for expansive soils and (if needed) methane gas protection systems. Less than significant impacts were determined.

D. Hydrology and Water Quality: The proposed project is subject to erosion, sedimentation and water quality impacts during demolition and construction operations. The project will be required to follow the Federal Clean Water Act guidelines; the applicant will also install bioswales that would filter the runoff before it enters the drainage system. Also included

are materials storage and spill prevention procedure. Less than significant impacts.

E. Noise: Noise impacts would be generated on the adjacent area primarily by construction activity. Some noise impacts may be related to project operation, as a consequence of increased traffic trips, though not to the degree of construction noise. Mitigation measures include scheduling of construction related activities, noticing and the use of or maintenance practices that reduce potential noise. Conditions of approval place restrictions on hours of construction activity and pile driving. Noise impacts related construction and vibration are unavoidable and significant. However, these impacts are of a temporary nature.

F. Sewer Service: The project is estimated to generate a net increase of 57,058 gallons of wastewater per day. The DEIR determined that existing treatment facilities could accommodate this flow. The applicant will be required to pay connection fees and provide a "will serve" letter." The applicant is also required to pay a one-time sewer facilities charge to the City of Los Angeles to account for increase in sewer generation. No significant impacts for wastewater treatment facilities were determined; "less than significant" impacts were determined for wastewater collection system.

Furthermore, in correspondence dated May 30, 2006, the Department of Public Works reported resolution of sewer line capacity issues. The Department of Public Works had completed a comprehensive sewer area study that included the cumulative impacts of all known current and planned development in the Marina. The study identified approximately 1.25 miles of sewer pipe upgrades, Public Works estimated cost for the upgrades at $2.5 million. The upgrades will be phased in over a four-year period beginning in Fiscal Year 2007-08. Funding will come from the Marina Replacement ACO Fund. The study has shown that the section of sewer pipe traversing the Del Rey Shores property is adequate to accommodate the known current and planned redevelopment in the Marina.

G. Solid Waste Disposal: Solid waste impacts would occur from the generation of debris in demolition and construction operations, and later from project operation. While existing landfill capacity was determined adequate to serve the population, if no new landfill sites have been approved or further solid waste alternatives developed, solid waste activities could reach capacity by 2017. THE MMP requires a recycling and reuse plan for construction waste; a solid waste management and transport plan. The DEIR determined Unavoidable and significant impacts beyond the year 2017.

H. Traffic/Access: The project would generate approximately 1,354 net new trips per day. Prior to mitigation the project would generate a significant traffic impact to the intersection of Lincoln Boulevard and Mindanao Way. The MMP requires payment of the traffic mitigation fee pursuant to the Marina del Rey TIP for local and regional improvements; widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao. The applicant would also be required to pay traffic mitigation fees that address regional traffic issues. Less than significant were determined.

Regarding the project's cumulative traffic impacts, for intersections which are wholly outside of the County's jurisdiction, or those intersections which the County may retain shared jurisdiction with the City of Los Angeles or Caltrans, mitigation measures are infeasible as these other jurisdictions have no reasonable, enforceable plans or programs sufficiently tied to the actual mitigation of the traffic impacts at issue. Therefore, in an abundance of caution, the Final Environmental Impact Report finds that, although the applicant will mitigate the Project's contribution wherever possible, cumulative impacts will remain significant at some intersections outside of the County's exclusive jurisdiction and the Project's contribution to these impacts will be cumulatively considerable. The Commission has therefore made a statement of overriding consideration in this regard.

I. Water Service: The DEIR estimates the project will generate a net increase in water consumption of 66,187 gallons per day. Entitlements have already been secured for water delivery. The MMP also calls for the improvement in water lines in Marquesas Way and Dell Avenue, provision of a water efficient landscaping plan and water conservation measures. No significant impacts to the water distribution system are anticipated.

68. The project complies with policies of the Marina del Rey Land Use Plan and provisions of the Marina del Rey Specific Plan as incorporated in the Marina del Rey Local Coastal Program:

A. The project has fulfilled all pertinent filing requirements specified in Section 22.46.1180 of the Marina del Rey Specific Plan;

B. The project meets development standards specified in Section 22.46.1330 of the aforementioned Specific Plan;

C. The project's net increase of 342 units is well within the limits of 530 dwelling units specified for the Via Marina Development Zone (Zone 12).

D. The project meets intent of the Residential V category and all development requirements specified herein;

E. Conditions of approval and mitigation measures require participation in contribution of a fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

69. The proposed project provides needed housing opportunities and affordable housing in the Coastal Zone in full compliance with the Mello Act.

70. Conditions of approval and mitigation measures will ensure that the proposed project will be compatible with surrounding uses.

BASED ON THE FOREGOING, REGARDING THE CONDITIONAL USE PERMIT BURDEN OF PROOF, THE REGIONAL PLANNING COMMISSION CONCLUDES:

Regarding the Coastal Development Permit:

A. That the proposed project is in conformity with the certified local coastal program and, where applicable,

B. That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code."

Regarding the Parking Permit:

C. That there will be no conflicts arising from special parking arrangements shared facilities, tandem spaces or compact spaces because:

1. Parking facilities using tandem spaces will employ valets or will utilize other means to ensure a workable plan, or

2. Apartment houses using compact spaces for a portion of the required parking have a management program or homeowner's association to assure an efficient distribution of parking spaces

D. That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve the property.

E. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

Regarding the Variance:

In addition to the information required in section 22.56.280 of the Los Angeles County Code, permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

F. That there are special circumstances or exceptional characteristics applicable to the property involved such as size, shape, topography, location of surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification

G. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity or zone; and

H. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity or zone.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Conditional Use Permit as set forth in Section 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission, acting in its role as responsible agency for the project, certifies that it has independently reviewed and considered the information contained in the Final Environmental Impact Report prepared by Los Angeles County Department of Regional Planning as lead agency prior to approving the project; adopts the Mitigation Monitoring Plan (MMP) which is appended to and included in the attached conditions of approval, finding that, pursuant to California Public Resources Code Section 21081.6, the MMP is adequately designed to ensure compliance with the mitigation measures during project implementation; determines that the conditions of approval attached hereto are the only mitigation measures for the project which are feasible and that the unavoidable significant effects of the project after adoption of said mitigation measures are as described in these findings; determines that the remaining, unavoidable environmental effects of the project have been reduced to an acceptable level and are outweighed by specific

health and safety, economic, social and/or environmental benefits of the project as stated in the findings and in the Environmental Findings of Fact and Statement of Overriding Considerations adopted by the lead agency for the project, which findings and statement are incorporated herein by reference.

2. In view of the findings of fact and conclusions presented above, Project No. R2005-00234-(4), Coastal Development Permit No. 2005-00002-(4), Parking Permit No. 2005-00004-(4) and Variance No. 2005-00004-(4) are approved subject to the attached conditions.

VOTE: 4-0-1

Concurring: Modugno, Rew, Valadez, Bellamy

Dissenting: None

Abstaining: Helsley

Absent: None

Action Date: December 13, 2006

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex, including all structures, parking, landscaping, hardscape and other appurtenant facilities located on the subject property, and subsequent construction of a 544-unit apartment on Parcels 100 and 101 in Marina del Rey, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements. This grant further requires the permittee to provide seventeen (17) inclusionary units for very low income residents and thirty-seven (37) replacement units for moderate income residents. This grant shall be subject to all of the following conditions of approval:

   a. The permittee shall enter into a Joint Covenant and Agreement with the Los Angeles County Community Development Commission, the County Department of Regional Planning and the Department of Beaches and Harbors stipulating that a total of fifty-four (54) rental dwelling units (the "Designated Units") of the proposed 544 units in the Project shall be income-restricted and rented only at an Affordable Housing Cost and only to households meeting the very low-income criteria applicable to the seventeen (17) inclusionary units and moderate-income criteria applicable to the thirty-seven (37) replacement units. The 54 Designated Units shall be dispersed throughout the Project and shall be compatible with the exterior design of the Project's market rate units in terms of appearance, materials and finished quality.

   b. The unit composition of the Project's 54 Designated Units shall be as follows: seventeen (17) Inclusionary units for very low income tenants and thirty-seven (37) Replacement units for moderate income tenants. The Project's 54 Designated Units shall be as depicted on an exhibit to be reviewed and approved by the Department of Regional Planning. The Exhibit shall be titled "Project Affordable Unit Location Exhibit" with a copy filed in the case records and a copy furnished to the Community Development Commission.

   c. The Permittee shall specifically provide in each Designated Unit lease and shall strictly enforce the requirement that each Designated Unit be occupied at all times by the eligible household who has leased that Designated Unit, and that any other occupant of the unit be another qualified member of the lessee's household. CDC shall be identified as a third party beneficiary of that covenant and shall have the right to directly enforce that restriction in the event Lessee fails to do so. Prior to execution of any Designated Unit lease with respect to the Project, Lessee shall submit to CDC and obtain its written approval of a standard form occupancy lease and Lessee shall thereafter use the approved form for all leases of Designated Units in the Project, with only such further modifications thereto as are first submitted to and approved in writing by CDC.

d. The Permittee shall carry out an affirmative marketing program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, ancestry, or familial status. The affirmative marketing program should ensure that any group(s) of persons not likely to apply for the housing without special outreach efforts (because of existing neighborhood racial or ethnic patterns, location of the housing, or other factors), know about the housing, feel welcome to apply and have the opportunity to rent.

e. The Permittee shall maintain records and satisfy reporting requirements as may be reasonably imposed by CDC to monitor compliance with the tenanting requirements described in said joint covenant and agreement.

f. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Lessee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site or any portion thereof. The non-discrimination and non-segregation provisions set forth herein shall remain in effect in perpetuity.

g. The Permittee shall refrain from restricting the rental or lease of the Site or any portion thereof on the basis of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry of any person. All such leases or contracts shall contain or be subject to substantially the following non-discrimination or non-segregation clauses:

h. Prior to the issuance of any building permits for the project, the permittee shall record said Covenant and Agreement in the office of the County Recorder. The permittee shall, prior to recordation in the Office of the County Recorder, submit a copy to County Counsel of the Department of Regional Planning, the Department of Beaches and Harbors, and the Community Development Commission for review and approval.

i. The permittee's obligations under this grant shall begin on the first date that any of the rental dwelling units of the Project to be constructed by the Lessee on the Site are approved for legal occupancy (the "Term Commencement Date"). The permittee has the right to record an affidavit with the Final Building Permit Approval (or Certificate of Occupancy) to reflect the commencement of the Term of this Agreement. This Covenant and Agreement shall expire, and all benefits

and burdens associated with this Covenant and Agreement shall cease, thirty (30) years from the Term Commencement Date

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 9, 12, and 13.

4. To the extent permitted by law, the permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

   a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

   b. At the sole discretion of the Permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

   The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year

time extension may be requested in writing with the applicable fee six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **$3,000.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **twenty (20) annual inspections.** Inspections shall be unannounced.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

    If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts reasonably necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the site plan on file. The amount charged for additional inspections shall be $150.00 per inspection, or the current recovery cost, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to

time extension may be requested in writing with the applicable fee six months before the expiration date.

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11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to

permittee, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.

12. Within fifteen (15) days of the approval date of this grant, the permittee shall remit a $25.00 processing fee payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination in compliance with Section 21152 of the Public Resources Code.

13. Within 30 days of the approval date of this grant, the permittee shall deposit the sum of $3,000.00 with the Department of Regional Planning to defray the cost of reviewing the required mitigation monitoring reports and verifying compliance with the Mitigation Monitoring Plan.

14. The conditions and/or changes in the project, set forth in the Mitigated Negative Declaration as necessary in order to assure that the proposed project will not have a significant effect on the environment, are incorporated herein by this reference and made conditions of approval of this grant. The permittee shall comply with all such conditions/changes in accordance with the attached Mitigation Monitoring Plan. As a means of ensuring the effectiveness of such conditions and/or changes to the project, the permittee shall submit mitigation monitoring reports to the Department of Regional Planning for review and approval as frequently as may be required by the department. The reports shall describe the status of the permittee's compliance with the required project conditions/changes.

15. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

16. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.

17. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.

18. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not provide pertinent information about said premises.

19. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations. Inspections shall be made as provided in Condition No. 10 to ensure compliance with this condition, including any additional inspections as may be necessary to ensure such compliance.

20. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of revised plans, similar to Exhibit "A" as presented at the public hearing that clearly depicts all required project changes. The property shall be developed and maintained in substantial conformance with the approved revised Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner.

21. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of a landscape plan, which may be incorporated into the Revised Exhibit "A" described in Condition No. 21. The landscape plan shall show the size, type, and location of all plants, trees, and watering facilities. The permittee shall maintain all landscaping in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary for the life of this grant.

22. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director of Planning and Director of Beaches and Harbors for review and approval three copies of a signage plan, including elevations, proposed lettering, colors, and locations of signage on the subject property, which may be incorporated into the Revised Exhibit "A" described in Condition No. 21. All renderings of said signage shall be drawn to scale and shall be in conformity with those approved by the Design Control Board.

23. Prior to issuance of a building permit for the project, the permittee shall, to the satisfaction of the Director of Planning, participate in, and contribute to his fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

24. The permittee shall, to the satisfaction of the Los Angeles County Fire Department, conduct site development in conformance with the approved Fire Safety Plan on file, such plan having been prepared in accordance with Section 22.46.1180 (15) of the zoning code.

25. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect property the property from fire hazard. The permittee shall provide fire flow, hydrants, gated access width, emergency access, and any other facilities as may be required by said Department.

26. The applicant shall provide fire sprinklers in all structures in accordance with Los Angeles County Building Code, Chapter 38, Sections 3802(b) 5 and 3802 (h) to the satisfaction of the Fire Department.

27. The following conditions shall apply to project construction activities:

    a. Construction activity shall be restricted between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. to 5:00 p.m. on Saturday. No construction shall occur on Sundays and legal holidays;

    b. Pile driving shall be restricted to the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday. No pile driving activity shall be conducted on Saturdays or Sundays;

    c. All material graded shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;

    d. All fixed and mobile construction equipment shall be in proper operating condition and be fitted with standard silencing devices; engineering noise controls shall be implemented on fixed equipment to minimize adverse effect on nearby properties. Generators and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent properties. All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state, and local standards, the permittee shall maintain an equipment log. Said log shall document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling

device. Said log shall be submitted to the Director and the Department of Public Works for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100-feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses;

e. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the owner of said adjacent property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking;

f. The permittee shall provide adjacent property owners with a pile driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and the County Department of Public Works prior to the initiation of construction activities. In addition, the permittee shall conspicuously post a construction schedule along portions of the property fronting Via Marina, Marquesas Way, Dell Avenue and Via Dulce10 days in advance of any construction activities. The schedule shall also include information where individuals may register questions, concerns or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems;

g. All project-related truck hauling shall be restricted to a route approved by the Director of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services;

h. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:

   i. Configure construction parking to minimize traffic interference;

   ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person);

   iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works;

   iv. Consolidate truck deliveries when possible;

   v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site;

   vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD for daily forecasts;

   vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director;

   viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices; and

   ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.

i. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works and the LEA, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:

   i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more);

ii. Replace ground cover in disturbed areas as quickly as possible;.

iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications;

iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded;

v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available);

vi. Install wheel washers where vehicles enter and exit unpaved areas onto paved roads, or wash off trucks and any equipment leaving the site each trip; and

vii. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.

j. All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles; and

k. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.

28. The permittee shall be in compliance with the attached Mitigation Monitoring Plan.

29. This grant shall not be effective until the permittee submits a plan for parking management and on-site circulation to the satisfaction of the Director on Planning and Public Works.

30. The permittee shall provide a minimum of 1,088 parking spaces consisting of 742 standard, 328 compact spaces and 18 handicapped spaces. Five-hundred and

fourteen (514) of said parking spaces shall be configured as tandem parking. The use of said parking spaces for storage is expressly prohibited.

31. ADA compliant sidewalks and driveways shall be constructed per the Department of Public Works satisfaction.

32. The use of the subject property shall be further subject to all of the following restrictions:

    a. The permittee shall maintain a management staff to reside on-site and be available to respond to any issues seven (7) days per week, 24 hours per day;

    b. The permittee shall post signage on the subject property providing a telephone number for the reporting of any problems associated with said apartment;

    c. Outdoor storage and the repair of automobiles shall be prohibited;

    d. The permittee shall monitor landscaping on a monthly basis and replace vegetation as needed.

33. The permittee shall design and construct driveways to the satisfaction of the Department of Public Works."

34. The aforementioned conditions shall run with the land and shall be binding on all lessees and sublessees of Parcel 100 and 101.

Attachment:
Mitigation Monitoring Plan

RJF 12-21-06

Table Title
Mitigation Monitoring Plan

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	GEOTECHNICAL AND SOIL RESOURCES			
Proposed project improvements would be subject to hazards associated with seismically-induced settlement due to seismic shaking, as well as soil liquefaction within the less dense silty sand, sand and silt soils.	**Fault Rupture, Seismic Ground Shaking, Landslides:** 5.1-1. Proposed structures shall be designed in conformance with the requirements of the 1997 edition of the UBC and the County of Los Angeles Building Code for Seismic Zone 4.	The applicant shall submit plans designed in conformance with UBC and County of Los Angeles Building Code requirements.	Building Department	During plan check
	Liquefaction: 5.1-2. Remedial measures shall be taken to limit lateral deformation and subsidence by installation of ground improvements as discussed in the URS geotechnical investigation titled *Second Addendum to the May 8, 2001 Geotechnical Report; Second Update and Response to Preliminary Review Comments Proposed Apartment Complex; The Shores, Marina del Rey, California, dated September 26, 2005.* The structures shall be founded on a pile foundation system, or an equivalent system acceptable to the County, designed for static loads as well as the lateral and vertical drag loadings from earthquake-induced	The applicant shall provide the final geotechnical report that ensures development will not be affected by liquefaction.	Building Department and County Geologist	During plan check and on going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	liquefaction and lateral deformation.			
	5.1-3. The proposed structures shall be placed on a pile foundation system, or an equivalent system acceptable to the County, with a minimum tip depth 45 feet below grade, or elevation –30 feet, whichever is deeper. These parameters would result in at least five feet of embedment into the site's underlying sand layer. Such piles may be designed for a dead-plus-live allowable axial compression bearing capacity of 45 ksf (factor of safety of 4) in addition to the friction values presented in the *Second Addendum to the May 8, 2001 Geotechnical Report; Second Update and Response to Preliminary Review Comments Proposed Apartment Complex; The Shores, Marina del Rey, California, dated September 26, 2005.* Piles embedded between 52 and 60 feet below grade may be designed for the allowable 60 ksf bearing capacity indicated in section 5.5 of the URS report titled *Geotechnical Investigation; Proposed Apartment Complex, The Shores, Marina del Rey, California [May 8, 2001].* For reference purposes, all geotechnical reports are incorporated in this Draft EIR in **Appendix 5.1**.	Field inspection	Building Department and County Geologist	On going during construction
	Expansive Soils:			
The project site is not located on expansive soils however; any	5.1-4. Any import material shall be tested for expansion potential prior to importing.	The applicant shall have expansion tests performed to verify	Public Works Department	Grading completion

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
import material shall be tested for expansion prior to importing.	5.1-5. Expansion index tests shall be performed at the completion of grading if silty subgrade soils are exposed to verify expansion potential.	expansion potential.		
	Soil Erosion:			
The project site is currently developed with apartment structures. Soil erosion could occur on the site.	5.1-6. Precautions shall be taken during the performance of site clearing, excavations and grading to protect the project from flooding, ponding or inundation by poor or improper surface drainage.	The applicant shall submit an Erosion Control Plan to protect the project from improper surface drainage.	Public Works and Building Departments	Prior to the issuance of grading permit
	5.1-7. Temporary provisions shall be made during the rainy season to adequately direct surface drainage away from and off the project site. Where low areas cannot be avoided, pumps shall be kept on hand to continually remove water during periods of rainfall. 5.1-8. Where necessary during periods of rainfall, the Contractor shall install checkdams, desilting basins, rip-rap, sand bags or other devices or methods necessary to control erosion and provide safe conditions, in accordance with site conditions and regulatory agency requirements. 5.1-9. Following periods of rainfall and at the request of the Geotechnical Consultant, the Contractor shall make excavations in order to evaluate the extent of rain-related	Field inspections	Building Department	On going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	subgrade damage. 5.1-10. Positive measures shall be taken to properly finish grade improvements so that drainage waters from the lot and adjacent areas are directed off the lot and away from foundations, slabs and adjacent property. 5.1-11. For earth areas adjacent to the structures, a minimum drainage gradient of 2 percent is required.		Public Works and Building Departments	
	5.1-12. Drainage patterns approved at the time of fine grading shall be maintained throughout the life of the proposed structures.	The applicant shall record a covenant prior to issuance of a certificate of occupancy.	Public Works and Building Departments	Prior to issuance of a certificate of occupancy
	5.1-13. Landscaping shall be kept to a minimum and, where used, limited to plants and vegetation requiring little watering as recommended by a registered landscape architect.	The applicant shall submit a landscape plan.	Planning Department	During plan check
	5.1-14. Roof drains shall be directed off the site.	Field inspections	Building Department	During plan check and on going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	Soil Gas: 5.1-15. If deemed necessary by the County Building and Safety, as defined in Los Angeles County Building Code Section 110.4, buildings or structures adjacent to or within 200 feet (60.96 meters) of active, abandoned or idle oil or gas well(s) shall be provided with methane gas-protection systems.	Field inspection	Public Works and Building Departments County Geologist	During construction
	5.1-16. The project shall incorporate any additional design recommendations as defined in the URS geotechnical investigation, dated May 8, 2001, and the update letter to this report, dated June 2, 2005.	Plan review	Public Works Department and County	During plan check
	NOISE			
Proposed development on the site and existing development in nearby off-site areas contain a variety of land uses, some of	5.2-1. All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state and local standards, the applicant shall maintain an equipment log. The log shall	The applicant shall submit an equipment log to ensure the equipment is properly maintained.	Public Works Department and Building Departments	Log submitted quarterly and during field inspections

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
which would be considered noise sensitive.	document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling device. The log shall be submitted to the LACDPW for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100 feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses that preclude all sight-lines from the equipment to the residential land use(s). As the project is constructed, the use of building structures as noise barriers would be sufficient. The County Building Official or a designee should spot check to ensure compliance.			
	5.2-2. Construction activities shall be restricted to between the hours of 8:00 AM and 5:00 PM in order to minimize construction and haul route activities that would create noise disturbance on surrounding residential and commercial real property line.	Field inspection	Building Department	On going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	5.2-3. Occupants/tenants of the surrounding sensitive land uses shall be informed of the anticipated duration of the project, noise impact and any other pertinent information where people can register complaints or questions regarding project activities.	During construction	Building Department	On going during construction
	5.2-4. The project applicant shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain contact information, the type of project, anticipated duration of construction activity and a hotline phone number to register complaints.	On-site construction notice posted		
	5.2-5. Grading work shall be kept between the hours of 8:00 AM and 5:00 PM Monday through Friday. Noise generated by the project shall attempt to remain within standards dictated by the Los Angeles County Code, Title 12, Environmental Protection, Section 12.08.440. However, the noise level shall not exceed a cumulative 15 minute noise level of 85 dB(A) (L25) during any hour that construction activities are in operation. This standard shall apply for any period of time during construction that compliance is technically and economically feasible.	Field inspection	Building Department	On going during construction
	5.2-6. All construction equipment, fixed and mobile, shall be in proper operating condition and fitted with standard silencing devices. Proper engineering noise controls should be implemented when necessary on fixed equipment. It is recommended that a monitoring program be implemented by the applicant in conjunction with the County of Los Angeles Sheriff's Department to	The applicant shall submit a monitoring plan to monitor mobile and fixed sources to ensure proper operating conditions.	Sheriff's Department	On going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	monitor mobile sources as necessary, contingent upon the Sheriff's Department acceptance of a monitoring agreement.			
	5.2-7. Vibration associated with the operation of any device capable of exceeding the vibration perception threshold (motion velocity) of 0.01 in/sec over the range of 1 to 100 hertz) at or beyond the property boundary on private property, or at 150 feet from the source if on a public space or public right of way is prohibited.	Field inspection	Building Department	On going during construction
	5.2-8. The project applicant shall consult with an engineer regarding available technology for the noise attenuation of the Pile Driver equipment. Past operation of this device has resulted in levels above 105 dB(A) 75 feet away from the equipment. Reports shall be provided to the County of Los Angeles Department of Health Services, Public Health Division, prior to grading.	The applicant shall provide noise attenuation reports to the Department of Health Services, Public Health Division.	Department of Health Services	Prior to grading
	AIR QUALITY			
Implementation of the project would generate both construction-related and operation-related pollutant emissions from a stationary and mobile source. Emissions and	5.4-1. Develop and implement a construction management plan, as approved by the County, which includes the following measures recommended by the SCAQMD, or equivalently effective measures approved by the SCAQMD: a. Configure construction parking to minimize traffic interference.	The applicant shall submit a construction management plan to ensure minimal construction activity impact.	Public Works Department	Prior to issuance of a grading permit and on going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
fugitive dust would be generated by construction activities including demolition, excavation, grading, construction, and motor vehicle traffic. In addition, for structures built before 1978, microscopic asbestos fibers may also pose an air quality concern.	b. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person). c. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable. d. Re-route construction trucks away from congested streets. e. Consolidate truck deliveries when possible. f. Provide dedicated turn lanes for movement of construction trucks and equipment on and off site. g. Maintain equipment and vehicle engines in good condition and in proper tune according to manufacturers' specifications and per SCAQMD rules, to minimize exhaust emissions. h. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD at 800/242-4022 for daily forecasts. i. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators.			

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	j. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices. k. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.			
	5.4-2. Develop and implement a dust control plan, as approved by the County, which includes the following measures recommended by the SCAQMD, or equivalently effective measures approved by the SCAQMD:	The applicant shall submit a dust control plan to alleviate dust emissions.	County of Los Angeles Department of Health Services, Public Health Division and Building Department	Prior to issuance of a grading permit and on going during construction
	a. Apply approved non-toxic chemical soil stabilizers according to manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more). b. Replace ground cover in disturbed areas as quickly as possible. c. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications.	Field inspection	Building Department	On going during construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	d. Water active grading sites at least twice daily (SCAQMD Rule 403). e. Suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph. f. Provide temporary wind fencing consisting of 3- to 5-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded. g. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least 2 feet of freeboard (i.e., minimum vertical distance between top of the load and the top of the trailer), in accordance with Section 23114 of the California Vehicle Code. h. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available). i. Install wheel washers where vehicles enter and exit unpaved roads onto paved roads, or wash off trucks and any equipment leaving the site each trip.			

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	j. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces. k. Enforce traffic speed limits of 15 mph or less on all unpaved roads. l. Pave construction roads when the specific roadway path would be utilized for 120 days or more.			
	5.4-3. In the event asbestos is identified within existing on-site structures, the project applicant/developer shall comply with SCAQMD Rule 1403 (Asbestos Emissions From Demolition/Renovation Activities). Compliance with Rule 1403 is considered to mitigate asbestos-related impacts to less than significant.	The applicant shall submit an asbestos removal plan, if asbestos is discovered, prior to demolition of existing structures.	Building Department	During demolition
TRAFFIC/ACCESS				
Upon completion, The Shores project would generate approximately 1,354 net new daily trips, with approximately 120 net new trips occurring during the	5.6-1. In order to fund the recommended TIP roadway improvements, all projects within the Marina, including the proposed project are required to pay the traffic mitigation fee imposed by the County of Los Angeles, pursuant to the Marina del Rey Specific Plan TIP. This fee is intended to fund the Category 1 (local Marina) and Category 3 (regional) roadway improvements described in the TIP, by providing "fair share" contributions	Submittal of plan review	Public Works Department	Prior to construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
AM peak hour and approximately 111 net new trips occurring during the PM peak hour.	toward the improvements, based on the amount of project PM peak-hour trips. These improvements address local traffic generated in and confined to the Marina, as well as trips, which leave the Marina (regional trips). The County's traffic mitigation fee structure is currently $5,690 per PM peak-hour trip. Based on the expected project trip generation of 111 net new PM peak-hour trips, the project would be required to pay $631,590.00 in trip mitigation fees. Of the $631,590.00, $176,712 shall go toward Category 1 transportation improvements, and the remaining $454,878.00 will go toward Category 3 transportation improvements. The LACDPW has expressed that it prefers to implement the Marina del Rey roadway improvements funded by the trip mitigation fees as a single major project in order to minimize traffic disruptions and construction time. Therefore, payment of the fee described previously is the recommended mitigation over the partial construction by this project of portions of the significant TIP roadway improvements. However, should the County decide that some roadway improvement measures are necessary immediately, the following measure is recommended to reduce the significant project traffic impact identified in this study to less than significant levels:			
Prior to mitigation, project traffic volumes for The Shores project could	5.6-2. <u>Lincoln Boulevard and Mindanao Way</u> – Widen Lincoln Boulevard, and relocate and narrow the existing median island to provide a northbound right-turn only or through lane at Mindanao Way. This measure is	The applicant shall submit improvement plans.	Public Works Department	Prior to construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
produce a significant traffic impact at the intersection of Lincoln Boulevard and Mindanao Way.	identical to the improvement described in Appendix G (TIP) of the Marina del Rey LIP.			
Cumulative traffic impacts would affect five intersections within Marina del Rey.	Cumulative traffic mitigation includes the following: Cumulative traffic impacts would affect five intersections that occur within Marina del Rey. To implement mitigation measures at these intersections the LACDPW has established a transportation improvement fund. As defined in this report, based on the expected project trip generation of 111 net new PM peak-hour trips, the project would be required to pay $631,590.00 in trip mitigation fees. Of the $631,590.00, $176,712 shall go toward Category 1 transportation improvements, and the remaining $454,878.00 will go toward Category 3 transportation improvements. The intersections and specific mitigation measures that would be funded by either Category 1 or Category 3 transportation improvements are defined below. • Admiralty Way and Via Marina – Participate in the reconstruction of the intersection to provide for a realignment of Admiralty Way as a "through roadway," with Via Marina intersecting into Admiralty Way in a "tee" configuration. All turning movements at the	The applicant shall pay fees to the transportation improvement fund.	Public Works Department	Prior to construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	intersection will be constructed as dual- or right-turning movements. This improvement is identified in the Marina del Rey TIP and will enhance flow within the Marina. • Admiralty Way and Palawan Way – Restripe the southbound approach to convert the through lane into a left/through shared lane; restripe the northbound approach to provide an exclusive right-turn only lane, in addition to a shared left-turn/through lane. This improvement is currently being investigated by the County for implementation as a new TIP-type measure, funded by fair-share contributions by projects within Marina del Rey. Also, add a third westbound through lane to Admiralty Way within the existing right-of-way by moving the median and restriping Admiralty Way, as identified in the TIP. • Lincoln Boulevard and Mindanao Way – In addition to the project-specific mitigation improvement described earlier (installation of a northbound right-turn only lane), restripe Lincoln Boulevard at Mindanao Way to provide dual left-turn lanes in the southbound direction. This improvement may require additional widening along southbound Lincoln Boulevard. Acquisition of additional rights-of-way to implement this improvement could be funded through payment of the applicable Marina del Rey traffic impact assessment fees described earlier. • Lincoln Boulevard and Fiji Way – Widen the eastbound Fiji Way approach to Lincoln Boulevard to provide an additional left-turn lane at Lincoln Boulevard. This			

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	measure is identical to the improvement described Admiralty Way and Mindanao Way – Widen northbound Admiralty Way to provide a right-turn lane at Mindanao Way. Install dual left-turn lanes on Admiralty Way for southbound travel at the approach to Mindanao Way. In addition, modify the traffic signal to provide a westbound right-turn phase concurrent with the southbound left-turn movement. The dual left-turn lanes on Admiralty Way will enhance egress from the Marina at Mindanao Way and has already been approved as part of a previous project (Marina Two).			
	The analysis of cumulative traffic impacts also defines impacts at five intersections that occur wholly outside or that have shared jurisdiction with the City of Los Angeles or Caltrans. For these intersections, physical improvements are infeasible as there are no reasonable, enforceable plans or programs sufficiently tied to the actual mitigation of the traffic impacts at issue. Intersection improvement measures recommended to address these cumulative traffic impacts at this intersection are described below. • Washington Boulevard and Via Marina/Ocean Avenue – The northbound approach on Palawan Way at Washington Boulevard shall be reconstructed to allow for a dual northbound left-turn lane onto westbound Washington Boulevard. Install a new traffic signal and, as necessary, modify the traffic signal at the intersection of Admiralty Way at Palawan Way. The applicant's pro-rata share is 13 percent which is $39,650.00 based on a total improvement cost estimated at $305,000.00. • Washington Boulevard and Palawan Way – Install a new	To the extent reasonable, enforceable plans sufficiently tied to actual mitigation of the traffic impacts at issue are established, the applicant shall pay their fair share of transportation improvements to the satisfaction of the County, City and/or Caltrans.	County and City Public Works Departments and Caltrans	Prior to construction

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
	traffic signal at this intersection. The northbound approach should be realigned to reduce the angle of the right-turn only lane and provide a more perpendicular approach. This improvement is also currently being assessed by the County as a new fair-share-funded Marina improvement. • Lincoln Boulevard and Washington Boulevard – No feasible physical improvements have been identified for this intersection. • Lincoln Boulevard and Marina Expressway (SR 90) – Extend SR 90 to connect to Admiralty Way via a fly-over across Lincoln Boulevard. The project should contribute its fair share to the applicable traffic impact assessment fees toward this key regional improvement. • Marina Expressway (SR 90) Eastbound and Mindanao Way – Implement a second left-turn lane in the east approach from on Mindanao Way from the Marina Expressway. Implementation of this measure(s) shall occur at the discretion and approval of the City of Los Angeles and Caltrans. Should the County, the City of Los Angeles and Caltrans agree on a funding mechanism to implement the recommended traffic improvements prior to building occupancy, it is recommended that the applicant, where appropriate, pay its fair share of required transportation improvements.			
	SOLID WASTE			
Demolition of the existing structures	**5.7-1.** Consistent with Title 20, Chapter 20.87 of the Los Angeles County Code, the project proponent shall	The applicant shall submit a Recycling and	Public Works Department	Prior to issuance of

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
would generate construction debris.	provide a Recycling and Reuse Plan to recycle, at a minimum, 50 percent of the construction and demolition debris. Documentation of this recycling program will be provided to the LACDPW, prior to the issuance of the Demolition and Grading permits.	Reuse Plan		demolition and grading permits
During project operation, The Shores project would generate a net increase of solid waste generation.	5.7-2. To reduce the volume of solid and hazardous waste generated by the operation of the project, a solid waste management plan shall be developed by The Shores project applicant. This plan shall be reviewed and approved by the LACDPW. The plan shall identify methods to promote recycling and reuse of materials, as well as safe disposal consistent with the policies and programs contained within the County of Los Angeles SRRE. Methods could include locating recycling bins in proximity to dumpsters used by future on-site residents.	The applicant shall submit a solid waste management plan.	Public Works Department	Prior to issuance of demolition and grading permits
	5.7-3. The Shores project applicant shall arrange with a hazardous materials hauling company for materials collection and transport to an appropriate disposal or treatment facility located outside of Los Angeles County.	The applicant shall contract with a hauling company.	Public Works Department	On going during construction
WATER SERVICE				
The proposed development of the project would increase the demand	5.8-1. Prior to the issuance of occupancy permits, The Shores project applicant shall improve, to the satisfaction of the LACDPW, water lines in Marquesas Way and Dell	The applicant shall submit water line improvement plans and submit will serve letter	Public Works and Planning Departments	Prior to the issuance of grading permits

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
for water in the project area.	Avenue.	from the County Department of Regional Planning		
	5.8-2. The Shores project shall prepare a landscape plan that meets all provisions of Title 26 of the Los Angeles County Code, Chapter 71, Water Efficient Landscaping.	The applicant shall submit a landscape plan	Planning Department	During plan check
	5.8-3. The Shores project shall incorporate into the building plans water conservation measures as outlined in the following: • Title 24, California Administrative Code which establishes efficiency standards for shower heads, lavatory faucets and sink faucets, as well as requirements for pipe insulation which can reduce water used before hot water reaches equipment or fixtures; and • Government Code Section 7800, which requires that lavatories in public facilities be equipped with self-closing faucets that limit the flow of hot water.	The applicant shall submit building plans incorporating water conservation methods	Public Works Department	Prior to the issuance of building permit
	SEWER SERVICE			
The proposed development would	5.9-1. Prior to issuance of building permits, The Shores project applicant shall demonstrate sufficient sewage	The applicant shall submit a will serve letter	Public Works Department	Prior to the issuance of

Impact	Mitigation Measure	Monitoring/Reporting Action(s)	Agency Responsible for Compliance	Timing
generate an increase demand for sewage.	capacity for the proposed project by providing a "will-serve" letter from LACDPW's Waterworks and Sewer Maintenance Division.	from the Public Works Department Waterworks and Sewer Maintenance Division	and Sewer Maintenance	building permits
	5.9-2. Prior to issuance of building permits, The Shores project applicant shall pay a one-time Sewer Facilities Charge to the City of Los Angeles, as required, to account for the increase in sewage generation.	The applicant shall pay the required fee.	Public Works Department	During plan check

RPC MEETING DATE
1/25/06
AGENDA ITEM NO.
7

REGIONAL PLANNING COMMISSION TRANSMITTAL CHECKLIST

PROJECT NO: R-2005-00234

CASE NO. CDP 200500002, VAR and PK 200500004

CONTACT PERSON: Russell Fricano

- ☒ STAFF REPORT
- ☒ DRAFT CONDITIONS (If Recommended For Approval)
- ☐ DRAFT FINDINGS FOR DENIAL (If Land Division Case Recommended For Denial)
- ☒ BURDEN OF PROOF STATEMENTS (Zoning or Plan Amendment Requests)
- ☐ ENVIROMENTAL DOCUMENTATION
- ☒ VICINITY MAP (Identifying Subject Property)
- ☒ LAND USE RADIUS MAP
- ☒ SITE PLAN (Revised)
- ☒ PHOTOGRAPHS
- ☒ CORRESPONDENCE
- ☒ Preliminary Sign Plan
- ☐ _____
- ☐ _____

Reviewed By: Russell J Fricano

Los Angeles County Department of Regional Planning
320 West Temple Street, Los Angeles, California 90012
Telephone (213) 974-6443

RPC/HO MEETING DATE	CONTINUE TO
AGENDA ITEM # 7	
PUBLIC HEARING DATE January 25, 2006	

PROJECT No. 2005-00234-(4)
Coastal Development Permit T200500002
Variance T200500004
Parking Permit T200500004

APPLICANT	OWNER	REPRESENTATIVE
Del Rey Shores Joint Venture	Los Angeles County	Aaron Clark Armbruster & Goldsmith LLP

REQUEST
To authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment complex consisting of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A total of 1,114 parking spaces will be provided within parking structures on-site.

LOCATION/ADDRESS	ZONED DISTRICT
4201 Via Marina Parcels 100 and 101	Playa del Rey
	COMMUNITY Marina del Rey
ACCESS Via Marina (East)	EXISTING ZONING Specific Plan: Residential V

SIZE	EXISTING LAND USE	SHAPE	TOPOGRAPHY
8.31 Acres	Apartment Complex (202 units).	Trapezoidal	Level

SURROUNDING LAND USES & ZONING

North: Residential V – Multi-family.	East: Residential IV & Open Space –. Multi-family and open space
South: Open Space/City of Los Angeles – Vacant	West: City of Los Angeles – Condominiums

GENERAL PLAN	DESIGNATION	MAXIMUM DENSITY	CONSISTENCY
Countywide	High Density Residential	N/A	See Staff Analysis
Marina del Rey Land Use Plan	Residential V	75 d.u../Acre	See Staff Analysis

ENVIRONMENTAL STATUS
Environmental Impact Report; potential impacts: Geotechnical and Soil Resources, Noise, Hydrology and Water Quality, Air Quality, Visual, Traffic/Access, Solid Waste, Water Service and Sewer Service.

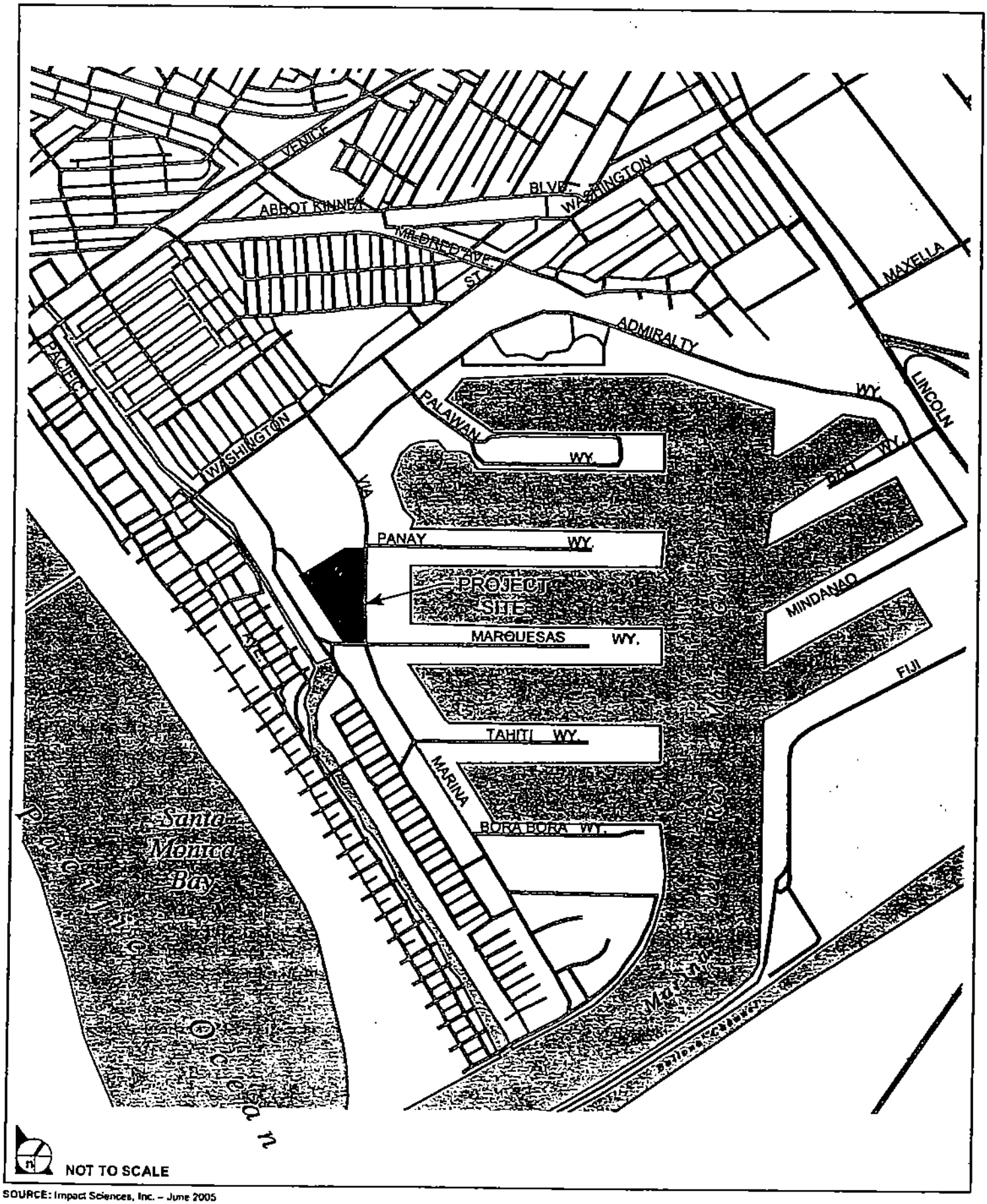
DESCRIPTION OF SITE PLAN
The proposed 544-unit apartment consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A total of 1,114 parking spaces will be provided within parking structures on-site; 189 of these spaces are allocated to compact parking.

KEY ISSUES
- Coastal Development Permit is requested for the demolition of the existing apartment and replacement with the proposed 544 unit apartment. Satisfaction of Sections 22.56.2320, Title 22 of the Los Angeles County Code, Coastal Development Permit "Burden of Proof" requirements.
- Variance is requested for the installation of signage that exceeds sign area/size requirements. Satisfaction of 22.56.290. Title 22 of the Los Angeles County Code, Variance "Burden of Proof" requirements.
- Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking. Satisfaction of 22.56.1020, Title 22 of the Los Angeles County Code, Parking Permit "Burden of Proof" requirements.
- The applicant is also requesting to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment; affordable housing requirements are 10% of the number of units.

(If more space is required, use opposite side)

TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

STAFF CONTACT PERSON		
RPC HEARING DATE(S)	RPC ACTION DATE	RPC RECOMMENDATION
MEMBERS VOTING AYE	MEMBERS VOTING NO	MEMBERS ABSTAINING
STAFF RECOMMENDATION (PRIOR TO HEARING)		



SOURCE: Impact Sciences, Inc. – June 2005

FIGURE 2.0-2

The Shores Apartments Project Site

779-02-06/05

PROJECT NUMBER

R2005-00234-(4)

CASE NUMBER

Coastal Development Permit No. 200500002-(4)
Parking Permit No. 200500004
Variance No. 200500004

OVERVIEW OF PROPOSED PROJECT

The proposed project is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey Specific Plan. The proposal consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A Parking Permit is requested to utilize compact parking spaces. A total of 1,114 parking spaces will be provided within parking structures on-site. A Variance has been requested for the construction and maintenance of signage in excess of County code requirements. The applicant is also requesting to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment; affordable housing requirements are 10% of the number of units.

DESCRIPTION OF SUBJECT PROPERTY

Location

The subject property is located at 4201 Via Marina in Marina del Rey (Parcels 100 and 101). The project site is bounded by Via Marina to the east, Dell Avenue to the west and Marquesas Way to the south. The property is also located in the Playa del Rey Zoned District.

Physical Features

The subject property is located on level terrain in a highly urbanized area devoted primarily to condominium and multi-family residential use.

ENTITLEMENTS REQUESTED

- A Coastal Development Permit is requested for the demolition of the existing apartment and replacement with the proposed 544 unit apartment.
- A Variance is requested for the installation of sign area and size requirements in excess of Los Angeles county code.
- A Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking.
- The applicant is also requesting to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment; affordable housing requirements are 10% of the number of units.

EXISTING ZONING

Subject Property

The subject property is zoned "Specific Plan" within the Marina Del Rey Local Coastal Program (LCP). This corresponds to a designation of "Residential V".

Surrounding Properties

North: Residential V

South: Open Space

West: City of Los Angeles

East: Residential IV and Open Space

EXISTING LAND USE

Subject Property

A 202-unit apartment complex currently exists on the subject property.

Surrounding Properties

North: Multi-family Residential

South: Vacant

West: Condominiums

East: Multi-Family Residential and Open Space

PREVIOUS CASES

Zoning Cases

Three Plot Plan cases were previously filed on the subject property; two under the same project number. Each is listed in chronological order.

Plot Plan 16912

Applicant: Del Rey Shores North.

Description: Plot Plan to authorize development on northerly parcel. The Plot Plan was approved April 29, 1968.

Plot Plan 27118

Applicant: Del Rey Shores.

Description: Plot Plan to authorize car ports. Plot Plan was approved February 20, 1975

Applicant: Del Rey Shores.

Plot Plan 27118

Description: Plot Plan to authorize an office manager's apartment. Plot Plan was approved October 30, 1984

No record of enforcement action was found.

SITE PLAN

The site plan depicts a proposed 544 unit apartment consisting of 12 buildings 75-feet in height, five stories of apartments over two levels of parking. Architectural features extend approximately 25 feet above the roofline for the purpose of screening roof-top equipment.

The primary entrance to the apartment complex fronts Panay Way and Via Marina. Tenant parking takes access off Dell Avenue to the rear of the structure through three ramps; tenant parking has gated access. The two level of parking consist of one subterranean level. A total of 1,114 parking spaces will be

provided within parking structures on-site; 189 of these spaces are allocated to compact parking.

GENERAL PLAN CONSISTENCY

Marina Del Rey Land Use Plan

The Marina del Rey Local Coastal Program (LCP) provides development guidelines for the unincorporated community of Marina del Rey. The Marina del Rey LCP consists of two sets of inter-related requirements: the Marina del Rey Land Use Plan (land use policies) and the Local Implementation Program or Specific Plan (development-specific requirements). The following analysis identifies policies in the Marina del Rey Land Use Plan applicable to this proposal.

Land Use Policy

The subject properties is designated "Residential V" in the Marina del Rey Land Use Plan. The Marina Land Use Plan specifies

> "...high density multi-family residential development up to 75 dwelling units per net acre. Height limit is 225 feet."
> (Page 8-10, Marina del Rey Land Use Plan, February 8, 1996).

The subject property is also located within the Via Marina Development Zone

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

The Marina del Rey Specific Plan provides development specific standards for new development.

Residential V Development Requirements

Intent

As specified in Section 22.46.1380 of Los Angeles county code, the Visitor-Serving/Convenience Commercial category is intended:

> "...as a high-density residential category permitting up to 75 dwelling units per net acre."

Permitted Uses

The Marina del Rey Specific Plan lists "Multi-Family dwellings no more than 75 dwelling units per acre" as a permitted use in the Residential V category (Section 22.46.131o (A).

Under Section 22.46.1210 (B) principal permitted uses require a Coastal Development Permit unless they are specifically exempted or categorically excluded. These provisions do not exempt this proposal

Development Standards

Section 22.46.1330 specifies development standards for all uses in the Residential V category. Applicable requirements are listed as follows:

- Building height is limited to a maximum of 225 feet,

Comment: The proposed apartment is 75 feet in height. The height is in compliance.

- Dwelling Unit Density shall not exceed 75 units per acre

Comment: The project proposes 544 units on 8.31 acres. This amounts to a project density of 65 units per acre. Project density complies with the specific plan.

- Front and Rear yard setbacks shall be a minimum of 10 feet in addition to the required highway and promenade setback.

Comment: The front and rear yard setbacks comply.

- Side yard setbacks shall be a minimum of five feet.

Comment: The side yards setbacks comply.

Communitywide Development Standards

Landscaping

According to Section 22.46.1060 (A) of the Maria del Rey Specific Plan, landscaping shall be provided to prevent erosion.

The applicant has provided sufficient landscaping within the central courtyard of the site and along the boundaries and edges facing public streets. Dell Avenue is a service street providing access to the rear of the property.

Lot Coverage

Section 22.46.1060 (B) specifies lot coverage not to exceed 90% of net area. A minimum of 10% of the net area is required to be landscaped.

Lot coverage on the proposed project is approximately 38% considering the building foot print. The applicant has provided 25% of landscaping. In both cases the site plan is sufficiently over minimum required standards.

ANALYSIS BY ENTITLEMENT REQUEST

Coastal Development Permit

The applicant has requested a Coastal Development Permit is requested for the demolition of the existing apartment and replacement with the proposed 544 unit apartment.

Filing Requirements

Section 22.46.1180 requires that an application for new development shall provide the following information.

Protection and Enhancement of Shoreline Access and Views

This requirement is intended for shoreline development, located between the shore and the first public road, to ensure that visitors have adequate visual and shoreline access. As the project is located westerly of Via Marina, this requirement is not applicable.

Wind Study

A Wind Study was conducted by Rowan, Williams, Davies and Irwin, dated March 30, 2005. The analysis concluded that the proposed project would not significantly affect wind conditions in Marina del Rey.

Avoidance and Mitigation of Geologic/Geotechnical Hazards

The Draft Environmental Impact Report analyzed potential impacts from Geologic/Geotechnical Hazards; these were determined to be less than significant (see subsequent section, "Environmental Documentation").

Protection of Cultural Heritage Resources

An apartment building has already been established on-site; The Initial Study did not indicate potential cultural impacts.

Avoidance and Mitigation of Flood Control Hazards

Hydrology impacts were analyzed in the Draft Environmental Impact Report. Mitigation measures including Best Management Practices were recommended. With mitigation the project impacts were noted as less than significant.

Protection of Gas Company Facilities

The project does not pose any impacts to Gas Company Faculties.

Conformance with Development Phasing Plan

The project will generate a net increase of 342 units. Section 22.46.1910 of the Marina Specific Plan allocates 530 dwelling units to the Via Marina Development Zone (Zone 12). According to estimates conducted by the Department of Public Works no increases in dwelling units occurred in Zone 12 since the certification of the Marina del Rey Local Coastal Program (LCP). The increase in dwelling units is within the specified limits.

Direct Traffic Mitigation

The Draft Environmental Impact Report recommended widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao.

Mitigation of Cumulative Impacts of the Subregional Traffic System

The Draft Environmental Impact Report also recommended that the applicant pay a Traffic Mitigation Fee that funds cumulative impacts.

<u>Coastal Development Permit Burden of Proof</u>

"Pursuant to Section 22.56.2410 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

1. That the proposed project is in conformity with the certified local coastal program and, where applicable,

2. That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code."

Comment: The pertinent sections of the Coastal Act have been attached to this report. Based upon a review of these sections and project's consistency with the

land use requirements of the Marina del Rey Local Coastal Program, staff is of the opinion that the application has met burden of proof provisions.

Parking Permit

A Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking. According to the applicant, the request is needed to maximize on-site parking and to provide more space for landscaping.

According to Section 22.52.1180, parking spaces for apartments shall be standard size unless compact are allowed by a Parking Permit. Of the 1,114 parking spaces, 925 standard parking spaces and 189 compact spaces are proposed.

To fulfill the requirements of County Code the applicant must substantiate that that the proposed apartments have a parking management program to ensure the efficient distribution of spaces.

Parking Permit Burden of Proof

As there are different types of parking permit requests, not every portion of the Parking Permit Burden of Proof will be applicable. This section only lists pertinent parts of the Parking Permit Burden of proof that apply to this application.

Pursuant to Section 22.56.1020 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

B. That there will be no conflicts arising from special parking arrangements shared facilities, tandem spaces or compact spaces because:

1. Uses sharing parking spaces operate at different times of the day or days of the week, or

2. Parking facilities using tandem spaces will employ valets or will utilize other means to ensure a workable plan, or

3. Apartment houses using compact spaces for a portion of the required parking have a management program or homeowner's association to assure an efficient distribution of parking spaces

D. That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve the property.

E. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

Comment: The applicant must demonstrate that a parking management plan will ensure a sufficient distribution of spaces.

Variance

The applicant has requested a Variance for the construction and maintenance of signage in excess of Los Angeles county code.

Marina del Rey Specific Plan Sign Requirements

The Marina del Rey Specific Plan requires that signs shall be detailed as possible without becoming unreadable. The Design Control Board regulates signage through its "Revised Permanent Sign Controls and Regulations" (Section 22.46.1060 (D) (1))

The subject signage was reviewed by the Design Control Board. The design of the sign is readable.

Section 22.46.1060 (D) (2) refers sign regulations of each Marina del Rey land use category to those of a particular zone. Standards for Residential V follow R-4 zoning requirements.

Variance Burden of Proof

In addition to the information required in section 22.56.280 of the Los Angeles County Code, permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

A. That there are special circumstances or exceptional characteristics applicable to the property involved such as size, shape, topography, location of surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification

B. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity or zone; and

C. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity or zone.

Comment: If the signage is proposed to correspond to the signage of applicant's competitors, the applicant must provide further examples of comparable signage in the area in terms of sign area and location. Staff also questions why so much signage is concentrated on the northeasterly portion of the site; this appears excessive. Further simulations are needed to depict the appearance of the signs on building elevations and other portions of the property.

IN-LIEU FEE REQUEST

In 1981, The California Legislature enacted Section 65590, also known as the "Mello Act." The purpose of the Mello Act was to preserve residential units occupied by low or moderate income residents within the coastal zone. This act requires that 10% of units in new development be reserved for low income residents. In 2002 the Board of Supervisors adopted a policy that implemented Mello Act requirements unless a developer could prove that the provision of affordable units on site would make the project infeasible and there was no means for the county to make economic concessions to accommodate the affordable units on-site.

Review of the request is a three step process:

1. An analysis is provided to determine if the provision of affordable units under the Mello act is feasible.

2. If the analysis concludes the provision of affordable housing is economically infeasible to the developer, the analysis next evaluates whether the county, in its role as the landowner in Marina del Rey, can provide viable economic concession to accommodate affordable units.

3. If the provision of on-site affordable housing is not considered feasible to the developer or the County, the developer would pay an in-lieu fee of $7.11 per net rentable square foot of development for each unit.

Del Rey Shores Letter

The applicant submitted a letter dated November 17, 2005 to the Department of Regional Planning, Beaches and Harbors and the Community Development Commission. This letter presented a formal request to pay an in-lieu fee in concert with the County's policy. The letter provided an analysis to support the infeasibility of providing 10% of affordable units; the letter presented problems associated with a range of alternatives including rent reduction, density bonus, below-market bond financing and tax credits. The applicant requested consideration by the County agencies that the fee would be utilized for providing affordable housing elsewhere in the county.

County Review

The applicant's request and analysis were reviewed by Keyser Marston Associates and Allan D. Kotin and Associates, consultants held on retainer by the Department of Beaches and Harbors. In a memorandum dated January 3, 2006, the consultants presented a financial analysis of the return on development costs of including the affordable housing units. The report also analyzed alternative incentives. The report also noted that there was little or no vacant or under-developed land suitable for redevelopment to multi-family use within the three miles of the coastal zone. The analysis concurred with the applicant conclusion that provision of 10% affordable units or the implementation of other incentive would render the project infeasible.

Joint Recommendation

In a letter dated January 18, 2006, the Department Regional Planning, Beaches and Harbors and the Community Development Commission recommended approval to the Regional Planning Commission of the application requesting payment of the in-lieu fee. A brief summary of the analysis and conclusion were included. The letter was jointly signed by the Director of each agency.

APPLICANT'S BURDEN OF PROOF RESPONSES

Applicant's responses are attached. Staff recommends that the written responses should be supplemented by oral testimony to the satisfaction of the Regional Planning Commission.

ENVIRONMENTAL DOCUMENTATION

Draft Environmental Impact Report

Under California Environmental Quality Act (CEQA) guidelines, a Draft Environmental Impact Report (DEIR) was prepared to evaluate potential impacts associated with the project. The DEIR, dated September 2005, identified five potential impacts: aesthetics, air quality, geotechnical/soil resources/environmental safety, hydrology and water quality, noise, traffic/access, water service, sewer service and solid waste disposal. This section summarizes the impacts, recommended mitigation and determination of potential significance.

Aesthetics

The height of the proposed apartment structures are out of character with existing development located to the south; however, the proposed structures also

comply with height requirements of the Marina Specific Plan. A tall apartment building is also located northerly of the site; this building exceeds the height of the subject apartments by several stories. The DEIR also noted that the project was reviewed and approved by the Design Control Board.

Determination: No significant impacts.

Air Quality

The DEIR notes air quality impacts generated by emissions from demolition and construction and project operation. Recommended mitigation includes methods that re-reroute or reduce construction-related trips.

Determination: Air quality impacts related to construction are determined to be significant and unavoidable

Geotechnical/Soil Resources/Environmental Safety

The project can potentially encounter geotechnical impacts that can occur throughout the Marina. These include ground shaking and liquefaction. Marina del Rey is also located within a tsunami inundation area. The DEIR lists mitigation that controls erosion and drainage.

Determination: Less than significant impacts.

Hydrology and Water Quality

The proposed project is subject to erosion, sedimentation and water quality impacts during demolition and construction operations. The project will be required to follow the Federal Clean Water Act guidelines; the applicant will also install bioswales that would filter the runoff before it enters the drainage system. Also included are materials storage and spill prevention procedures.

Determination: Less than significant impacts.

Noise

Noise impacts would be generated on the adjacent area primarily by construction activity. Some noise impacts may be related to project operation, as a consequence of increased traffic trips, though not to the degree of construction noise. Mitigation measures include scheduling of construction related activities, noticing and the use of or maintenance practices that reduce potential noise.

Determination: Noise impacts related construction and vibration are unavoidable and significant.

Sewer Service

The project is estimated to generate a net increase of 57,058 gallons of wastewater per day. The DEIR determined that existing treatment facilities could accommodate this flow. The applicant will be required to pay connection fees and provide a "will serve" letter."

Determination: No significant impact for wastewater treatment facilities and "less than significant impacts for wastewater collection system.

Solid Waste Disposal

Solid waste impacts would occur from the generation of debris in demolition and construction operations, and later from project operation. While existing landfill capacity was determined adequate to serve the population, if no new landfill sites have been approved or further solid waste alternatives developed, solid waste activities could reach capacity by 2017.

Determination: Unavoidable and significant impacts beyond the year 2017.

Traffic/Access

The project would generate approximately 1,354 net new trips per day. Prior to mitigation the project would generate a significant traffic impact to the intersection of Lincoln Boulevard and Mindanao Way. The DEIR recommends widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao. The applicant would be required to pay traffic mitigation fees that address regional traffic issues.

Determination: Less than significant.

Water Service

The DIER estimates the project will generate a net increase in water consumption of 66,187 gallons per day. Entitlements have already been secured for water delivery.

Determination: No significant impacts to the water distribution system are anticipated.

Air Quality, Noise and Solid waste were all noted as unavoidable and significant. Most significant impacts are of a temporary nature. It is important to note that additional mitigation measures can be incorporated in the draft Conditional Use Permit conditions at the discretion of the Commission.

COMMUNITY OUTREACH

A legal notice was published in the local newspaper, *The Argonaut*, on December 1, 2005. Staff also mailed out 1,798 hearing notices on December 7, 2005 to property owners and tenants within 500 feet of the site and interested parties. The applicant posted a hearing notice sign on the subject property prior to 45 days before the public hearing.

PUBLIC COMMENT

At the time of this report, staff received 17 letters in opposition to the request, with concerns about height and visual impacts, excessive density, increased traffic congestion, noise, impacts on local character, inadequate parking, impacts on local schools and hospitals, potential overcrowding of the proposed units, accuracy of the environmental document and objections to the in-lieu fee request. Most opposition letters had addresses on Via Dulce. Copies of these letters are attached.

PUBLIC AGENCY COMMENTS

Staff received comments from the City of Culver City in a letter dated, January 18, 2006. The letter, questioned certain sections of the visual and traffic analyses, requested better specificity of road improvements and recommend the adoption of a Statement of Overriding Considerations.

STAFF EVALUATION

The proposed project complies with development requirements of the Marina del Rey Land Use Plan and Specific Plan. Proposed density is well within the capacity set by the LCP. A structure, several stories higher than the proposed apartments, has already been established in the vicinity of the site. The request for the In-Lieu fee was analyzed and the Department of Regional Planning, Beaches and Harbors and CDC recommend the fee for approval. The DEIR also lists most impacts below the threshold of significant and provides mitigation measures. Most significant Impacts listed as significant, are more of a temporary nature, related to construction.

Staff notes, however, that additional information is needed: with tandem parking and the introduction of compact parking it is important to consider the parking management program. As a Variance requires a more stringent burden of proof, the applicant must provide further and more detailed evidence why a greater proportion of signage is necessary, especially with concerns raised about visual impacts. Plans for assisting existing tenants with relocation, provision of on-site

security and protocol for responding to complaints from neighbors should also be presented.

FEES/DEPOSITS

To be provided with draft conditions to be presented for the subsequent public hearing.

STAFF RECOMMENDATION

Staff recommends that the Commission:

- Hear testimony;
- Consider whether project mitigation monitoring program and recommended conditions sufficiently address potential impacts identified in environmental analysis and community concerns.
- If the Commission determines that additional time is needed to address issues raised a the public hearing, staff recommends that the Commission continue the hearing; If the Commission finds the Burden of Proof has been met for each of the requests and that the project and request for the in-lieu fee are consistent wit the intent of the Marina del Rey LCP, then staff recommends approval.

SUGGESTED MOTIONS

IN ORDER TO PROVIDE ADDITIONAL TIME TO ADDRESS ISSUES PRESENTED AT THIS PUBLIC HEARING, I MOVE THAT THE REGIONAL PLANNING COMMISSION CONTINUE THE PUBLIC HEARING FOR PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 TO _____, 2006, TO BE HELD AT 9:00 A.M. IN THE REGIONAL PLANNING COMMISSION HEARING ROOM IN DOWNTOWN LOS ANGELES.

I MOVE THAT THE REGIONAL COMMISSION CLOSE THE PUBLIC HEARING AND EXPRESS ITS INTENT TO APPROVE PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 AND FOR STAFF TO PREPARE FINDINGS AND CONDITIONS AND THE FINAL ENVIRONMETAL DOCUMENT.

Staff Analysis prepared by Russell J. Fricano, Ph.D., AICP
Supervising Regional Planner, Zoning Permits II

Attachments:
Draft Conditions of Approval
Burden of Proof
County Correspondence
Public Agency Comments
Public Comment
Vicinity Map
Aerial Photograph
Land Use Map
Site Plan, landscape, parking and floor plans
Building elevations
Preliminary Signage Plan
Wind Study
Marina del Rey Development Table
Public Resources Code Sec.30210-30214, 30220-30224

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements, and the payment of a fee in lieu of allocating 10% of the dwelling units to affordable housing, subject to all of the following conditions of approval.

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 10, 12, and 23.

4. To the extent permitted by law, the permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

    a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

    b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing with the applicable fee six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

9. **This grant will terminate _____, 2026.**

   Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the Permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for a continuance of the use permitted under this grant, whether including or not including modification to the use at that time.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **$3,000.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **twenty (20) annual inspections.** Inspections shall be unannounced.

11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts reasonably necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the site plan on file. The amount charged for additional inspections shall be $150.00 per inspection, or the current recovery cost, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to permittee, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.

13. The permittee shall remit processing fees payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination in compliance with Section 21152 of the Public Resources Code.

14. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

15. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.

16. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.

17. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not provide pertinent information about said premises.

18. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as

closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations. Inspections shall be made as provided in Condition No. 10 to ensure compliance with this condition, including any additional inspections as may be necessary to ensure such compliance.

19. Within sixty (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of revised plans, similar to Exhibit "A" as presented at the public hearing that clearly depicts all required project changes. The property shall be developed and maintained in substantial conformance with the approved revised Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner.

20. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of a landscape plan, which may be incorporated into the Revised Exhibit "A" described in Condition No. 19. The landscape plan shall show the size, type, and location of all plants, trees, and watering facilities. The permittee shall maintain all landscaping in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary for the life of this grant.

21 The following conditions shall apply to project construction activities:

a. Construction activity shall be restricted between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. to 5:00 p.m. on Saturday. No construction shall occur on Sundays and legal holidays.

b. All material graded shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;

c. All fixed and mobile construction equipment shall be in proper operating condition and be fitted with standard silencing devices; engineering noise controls shall be implemented on fixed equipment to minimize adverse effect on nearby properties. Generators and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent properties. All construction equipment, fixed or mobile, that is utilized on the site for more than two working

days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state, and local standards, the permittee shall maintain an equipment log. Said log shall document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling device. Said log shall be submitted to the Director and the Department of Public Works for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100-feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses;

d. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the owner of said adjacent property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking;

e. The permittee shall provide adjacent property owners with a pile driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and the County Department of Public Works prior to the initiation of construction activities. In addition, the permittee shall conspicuously post a construction schedule along portions of the property fronting Via Marina, Marquesas Way, Dell Avenue and Via Dulce10 days in advance of any construction activities. The schedule shall also include information where individuals may register questions, concerns or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems;

f. All project-related truck hauling shall be restricted to a route approved by the Director of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep

record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services;

g. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:

   i. Configure construction parking to minimize traffic interference;

   ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person);

   iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works;

   iv. Consolidate truck deliveries when possible;

   v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site;

   vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD for daily forecasts;

   vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director;

   viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices; and

   ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.

h. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works and the LEA, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:

i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more);

ii. Replace ground cover in disturbed areas as quickly as possible;

iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications;

iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded;

v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available);

vi. Install wheel washers where vehicles enter and exit unpaved areas onto paved roads, or wash off trucks and any equipment leaving the site each trip; and

vii. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.

i All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles; and

j. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.

22. This grant shall not be effective until the permittee submits a plan for parking management and on-site circulation to the satisfaction of the Director on Planning and Public Works.

23. This grant shall not be effective until the permittee pays an in-lieu fee of $7.11 per net rentable square foot of development for each unit, payable to the County of Los Angeles for the provision of affordable housing in the Unincorporated Los Angeles County.

24. The permittee shall provide a minimum of 1,114 parking spaces consisting of 925 standard and 189 compact spaces. The use of said parking spaces for storage is expressly prohibited.

25. The project shall be in compliance with the Mitigation Monitoring program.

26. The use of the subject property shall be further subject to all of the following restrictions:

    a. The permittee shall maintain a management staff to reside on-site and be available to respond to any issues seven (7) days per week, 24 hours per day;

    b. The permittee shall post signage on the subject property providing a telephone number for the reporting of any problems associated with said apartment;

    c. Outdoor storage shall be prohibited or the repair of automobiles shall be prohibited;

    d. The permittee shall monitor landscaping on a monthly basis and replace vegetation as needed.

RJF 1-19-06

Attachment A

Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Coastal Development Permit
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to Section 22.56.2410 of the Los Angeles County Code, which outlines the requisite findings for approval of a coastal development permit. Each required finding is listed below in italicized font; the applicant's description of how the proposed development project satisfies each finding follows in bold font.

The applicant shall substantiate to the satisfaction of the Planning Commission the following facts:

1. *That the proposed development is in conformity with the certified local coastal program.*

The proposed residential development project is consistent with the certified Local Coastal Program's Marina del Rey Specific Plan in that:

- **Consistent with LACC 22.46.1180.12.a, the project has been reviewed and conceptually approved by the Department of Beaches & Harbors' Design Control Board (DCB), as further outlined in Attachment "D" to this application (DCB's approval letter for project). In rendering its conceptual approval for the project, the DCB found the proposed project to be in conformity with the various public access, height, circulation, building massing, visual impact and view requirements of the LCP.**
- **The design of the proposed residential buildings is in compliance with the site design and architectural treatment requirements of the Specific Plan and the specific design will be regulated by the Design Control Board. As the parcels are not waterfront parcels, a project view corridor is not required.**
- **The proposed use complies with all applicable communitywide design guidelines of the Marina del Rey Specific Plan, as provided in Section 22.46.1060 of the County Code, as follows:**
  - **Landscaping is depicted along the perimeter of the site which exceeds the minimum Code-required width of eight feet. Those portions of the underground parking structure that may be visible above ground have been appropriately shielded. Landscaping plans will be required for review and approval by the County Biologist and the Design Control Board prior to obtaining building permits.**

- Per the Specific Plan, lot coverage is limited to 90% of the site and a minimum of 10% of the site must be landscaped. Project structures cover approximately 140,027 square feet of the approximately 8.31-acre site, for site coverage of only approximately 40%. The total area devoted to open space (perimeter landscaping and interior courtyard and landscaped areas) is approximately 224,040 square feet, or roughly 60% of the project site. Moreover, a large portion of the project's open space landscaped area is not underlain by any structures so it will allow for natural percolation of water thereby reducing project surface runoff.

➢ Consistent with LACC 22.46.1190.A.1, site development on Parcels 100 & 101 will occur in geologically safe areas.

➢ The applicant will conduct site development in conformity with the archeological reporting requirement specified in LACC 22.46.1190.2.a-c.

➢ Consistent with LACC 22.46.1190.A.3, the applicant proposes implementation of a functional transportation systems management (TSM)/Transportation Demand Management (TDM) program incorporating the on-site installation of bike racks and a carpooling informational bulletin board.

➢ The proposed development project conforms to the phasing schedules in the certified LCP because:

- There will be no significant, unmitigated daily and peak-hour adverse traffic impacts created as a result of project development;

- There is sufficient traffic capacity in both the Marina del Rey internal system and the subregional highway system serving the Marina to accommodate the traffic generated by the modest planned development; and

- Parcels 100 & 101 are located in LCP Development Zone 12 (Via Marina), which has a current residential development capacity/"cap" of 530 additional dwelling units (see LACC 22.46.1910). The proposed development will result in the addition of 342 net new dwelling units, which is significantly less than the remaining development allocation of 530 dwelling units in the Via Marina

Development Zone. After project development, there will thus be a remaining balance of 188 dwelling units remaining in the Via Marina Development Zone (i.e., 530 allocated to DZ - 342 net new units in project = remaining balance of 188 dwelling units in DZ). Accordingly, the project is in full conformity with the residential build-out limitations of the LCP specified for the Via Marina Development Zone.

The applicant is proposing a residential density for Parcels 100 & 101 that is significantly less than that otherwise provided for the Parcels in the LCP: i.e., only 544 project units are proposed whereas the LCP would support development of 623 units (i.e., 8.31 acres x 75 du's per acre = 623 du's).

- The proposed development project is entirely consistent with the subject parcels' "Residential V" land use designation per the MDR Specific Plan in that:

  - All uses that will be accommodated on Parcels 100 & 101 are included in the list of permitted uses provided in the MDR Specific Plan for the Residential V land use category (see LACC 22.46.1310);

  - The proposed development is in conformity with the front, rear and side yard setbacks specified in LACC 22.46.1330; and

  - Site development will not reduce the amount of land area devoted to existing visitor-serving, boating or marine commercial uses, but will significantly improve pedestrian circulation and public access opportunities around the perimeter of the project (through construction of a new, widened public sidewalk, installation of attractive landscaping and accent lighting on the site's public frontage along Via Marina).

- The proposed development is in conformity with the special development considerations specified for Parcels 100 & 101 in LACC 22.46.1910 in that:

  - Proposed building height of 75 feet for the project (which is exclusive of appurtenant screened rooftop mechanical equipment, and selected artistic architectural elements/"sail" forms which would extend

approximately 25 above the roofline) is well below the parcel specific building height limitation of 225 feet;

- Proposed project infrastructure has been designed, and will be constructed by the applicant, in an environmentally sensitive manner, and shall follow design policies of the LCP, including landscaping standards required by the Department of Beaches & Harbors' Design Control Board.

Project Consistency with Policies of the Marina del Rey Land Use Plan

As noted, the subject parcels are designated Residential V in the Marina del Rey Land Use Plan (LUP), which allows for "high density multi-family residential development up to 75 dwelling units per acre." The proposed project is consistent with these land use designations. The project complies with the following Land Use Plan policies, which are applicable to the project:

- Shoreline Access:
  Policies 1, 2 and 10 – 13 of this element of the LUP establish requirements for new development to follow which would preserve or enhance public access to the shoreline and awareness of shoreline access points.

  As Parcels 100 & 101 are not waterfront parcels, direct access to the shoreline is not possible; nonetheless, the applicant proposes to improve public pedestrian access along the perimeter of the site through construction of a widened sidewalk and installation of substantial landscaping improvements along public streets fronting the project site. The applicant will also be required to pay traffic mitigation fees, a portion of which will be utilized to fund a future shuttle bus system in Marina del Rey.

- Recreation and Visitor-Serving Facilities:
  Policies 5 – 7 and 16 of this element of the LUP require, respectively: that non-priority uses contribute to the Coastal Improvement Fund, which will be used to fund development of recreational facilities to offset increases in residential density; that parking for new development be provided consistent with County Code requirements; and, that parking areas be softened in appearance with landscaping.

  As residential uses are not deemed to be a priority use in the Marina, the applicant will be required to contribute to the Coastal Improvement Fund as provided in the MDR Specific Plan, consistent with the above LUP policy. The project will be fully compliant with the parking requirements of the County Code (through the

applicant's obtainment of a Parking Permit to allow compact parking for a small portion of the project's residential spaces), and sufficient landscaping has been programmed along the outer perimeter of the site.

- Marine Resources:
  Policy 2 of this element of the LUP requires that appropriate measures be taken to reduce contaminated runoff into bay and Ballona Creek waters.

  The applicant has completed a drainage concept, which has been approved by the Department of Public Works, and will be required to comply with the requirements of the drainage concept. In addition, the applicant will be conditioned to fully comply with the County-administered NPDES permit prior to issuance of grading permits to ensure that Marina waters are not polluted by runoff from the project.

- Cultural Heritage Resources:
  Policies 1, 4 and 5 of this element of the LUP require that all projects be reviewed for potential cultural resources impacts and that the Office of State Historic Preservation and the Native American Heritage Commission be notified of the location and dates of project grading. In addition, these policies indicate that if Native American or grave goods are discovered during grading, several sections of the state Health and Safety and Public Resources Codes will govern the project.

  The project was reviewed for potential cultural resources impacts and it was determined that cultural resources are unlikely to be found in developed areas of the Marina. Conditions of approval will be imposed requiring notification of grading activities and providing for state jurisdiction pursuant to the policies of this element.

- Land Use Plan:
  Policies 1, 6, 8 and 10 of this element of the LUP establish preservation of the small craft harbor for recreational purposes as well as provision of visitor-serving facilities as priorities in the Marina and indicate that new development shall not detract from existing or proposed boating facilities. Coastal housing is identified as a use that is not a priority in the Marina while affordable and senior housing is encouraged. The Design Control Board is established to review new development for consistency with the *Manual for Specifications and Minimum Standards of Architectural Treatment and Construction* and the certified LCP. Development zones are also established with development limits consistent with traffic impacts identified in the Marina Traffic Study.

As noted, the project parcels are located in the Via Marina development zone and an additional 188 units will remain available in this development zone after approval of the project; thus the project is within the build-out/residential development potential of the Via Marina development zone. The property has been historically used for residential purposes and the proposed project will continue this use; therefore, boating or other coastal-dependent uses will not be impacted or displaced on the residentially-designated parcels. The applicant will be subject to conditions that will ensure compatibility with other uses in the Marina and the project will satisfy the County's affordable housing policy for Marina del Rey through payment of the Board of Supervisors'-established "in-lieu" affordable housing fee, subject to appropriate findings regarding on-site infeasibility. The Design Control Board reviewed and conceptually approved the project on January 20, 2005, and will review the specific design of the project after final approval by the Regional Planning Commission.

- Coastal Visual Resources:
  Policies 1, 6 and 9 of this element of the LUP require that all new development preserve or enhance views of Marina waters from public areas and that no infringements be created that would affect wind patterns for boats in the Marina.

  As the parcels are not adjacent to the water, there are no views to preserve nor is there an opportunity for new views from public areas to be created; however, as noted, the project will significantly improve pedestrian circulation and public access opportunities around the perimeter of the project (through construction of a new, widened public sidewalk, installation of attractive landscaping and accent lighting on the site's public frontage along Via Marina). A wind study has been conducted in compliance with the provisions of the LCP; this study concludes that the proposed project will not adversely affect wind patterns for sailboats or birds in the Marina.

- Hazard Areas:
  Policies 1 – 3 of this element of the LUP require that flood control, runoff and storm drain plans and geotechnical studies be completed and that earthquake resistant construction practices be utilized to reduce project hazards.

  The project will be conditioned to require full compliance with these studies and utilization of earthquake resistant construction.

- **Circulation:**
  The policies of this element of the LUP detail appropriate circulation improvements that must be completed in order to mitigate traffic impacts of all potential development in the Marina. This element also establishes traffic mitigation fees that must be paid for all new development based on the increase in p.m. peak hour trips generated by the project.

  The project will be conditioned by the County to require payment of these fees to mitigate traffic impacts associated with the project.

- **Public Works:**
  Policies 2, 3, 6, 10 and 11 of this element of the LUP require that appropriate facilities are in place to support the development prior to construction. These facilities include water, sewer, roadways, and fire safety plans. This element also includes a requirement for use of irrigation designed to conserve water. All public works facilities will be required prior to obtaining building permits, following standard County practices.

  The applicant proposes utilization of water conserving devices and irrigation and the project will be conditioned by the County to require that water conservation technology be utilized in all project irrigation.

2. *That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code:*

This finding is not applicable to the subject development application as project Parcels 100 & 101 are not located between the nearest public road and the sea or shoreline.

Attachment B
Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Parking Permit Application
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to LACC 22.56.1020 of the Los Angeles County Code (LACC), which outlines the requisite findings for approval of a parking permit. Each required finding is listed below in italicized font. The applicant's description of how the proposed development project satisfies each finding follows in bold font.

Parking Permit Request:
The applicant is requesting a Parking Permit pursuant to LACC 22.56.1020 to authorize the installation and maintenance of compact parking spaces for a small portion of the Project's required on-site apartment parking.

The applicant shall substantiate to the satisfaction of the Planning Commission the following facts:

A. *That there will be no need for the number of parking spaces required by Part 11 of Chapter 22.52 because...*

This finding is not applicable to the applicant's parking permit request.

B. *That there will be no conflicts arising from special parking arrangements allowing...compact parking spaces for a portion of the Project's required residential parking because:*

The applicant proposes 189 compact parking spaces out of a total of 1,114 project parking spaces. These 189 compact spaces would comprise only approximately 17% of overall project parking. Per the County Zoning ordinance, 1,088 parking spaces (952 spaces for the dwelling residents and 136 guest spaces) would be required to service the project, so the applicant is providing 26 more parking spaces than required by Code.

As configured, and with the applicant's implementation of an on-site parking management program, the compact parking spaces will constitute an alternate parking arrangement that, while not compromising vehicular ingress, egress and movement throughout the site, will enable the applicant to maximize on-site parking for the project and also maximize the at-grade landscaped area by reducing the size of the parking garage. As noted, to assure an efficient distribution of all project parking spaces and a workable parking plan, the applicant will implement a parking management program for the project.

C. *That off-site facilities, leases of less than 20 years, rear lot transitional parking lot and uncovered residential parking spaces...*

This finding is not applicable since the applicant is not requesting off-site parking, transitional parking or uncovered required residential parking.

D. *That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve surrounding property.*

To the contrary, approval of the requested parking permit will enable implementation of a contemporary parking design for the project that will ensure efficient traffic circulation throughout project site. Approval of the requested parking permit will also enable the applicant to provide 26 parking spaces in excess of Code requirements (while at the same time maximizing the at-grade landscaped area by reducing the size of the parking garage); this, in turn, will help insure that on-street parking and unauthorized use of adjacent, off-site parking facilities is kept to a minimum.

E. *That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in the Zoning Ordinance.*

Site development will occur in strict conformity to the various development standards prescribed in the Zoning Ordinance and certified Local Coastal Program relating to yards, walls, fences, loading facilities, landscaping, etc. Abundant project open space has been provided in the project far in excess of County Code requirements for minimum lot coverage (see Coastal Development Permit burden of proof accompanying application).

Attachment C
Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Variance (for R-4 Zone signage modification)
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to LACC Section 22.56.290, which outlines the requisite burden of proof for approval of a variance in the County of Los Angeles. Each required variance burden of proof is numbered in normal font and is followed, in bold font, by the applicant's explanation of how each burden of proof is being satisfied in this case.

Variance Request:
The applicant is requesting a Variance pursuant to LACC 22.56.260.I to receive authorization for a modification of the applicable R-4 Zone signage standards, in order to install and maintain more project sign area/project sign size than is allowed by-right in the R-4 Zone.

Applicant's Burden of Proof for Variance:

1. That there are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification; and

A special circumstance exists regarding the location of the subject property and its surroundings in that existing apartment projects in the same unincorporated Marina del Rey vicinity and under identical zoning classification have been developed with signage that exceeds the maximum sign area and sign size standards prescribed by these nearby properties' underlying zoning classifications. The unusually large size of the project site also presents a special circumstance not generally applicable to other properties in the same vicinity and under identically zoning classification. The 8.31-acre project site is larger than most other similarly zoned nearby properties and the development proposal calls for the construction of twelve (12) apartment buildings over the site. Additional project signage is thus needed beyond that allowed per the controlling R-4 Zone to insure adequate sign exposure on all sides of the site so that visitors and goods deliverers can readily identify and navigate the project.

The County's multi-residential (R-4 Zone) sign standards are out of date and woefully inadequate because they would allow only one (1) wall-mounted building identification sign per principal use, and the area of such sign could not exceed a scant six (6) square feet. Moreover, no project entry monument signage

would be allowed per the R-4 Zone sign standards, whereas entry monument signage is a conventional and expected element of any new contemporary multi-family/apartment project of this size, scale and quality. Therefore, it is only equitable and appropriate that the subject project be entitled to a similar level of project signage as other multi-family properties in the unincorporated vicinity within the same zone. (See photographs accompanying this application of signage for other apartment projects in the same unincorporated vicinity and zone as the subject property).

2. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone; and

The requested variance for modification of R-4 Zone signage standards is necessary in order to preserve a substantial property right of the applicant possessed by lessees of other multi-residential properties in unincorporated Marina del Rey within the same vicinity and zone. This is because such other lessees of multi-residential properties in the same vicinity and zone as the subject property have been allowed to develop their parcels with signage that exceeds the standards prescribed for such in these properties' underlying zoning categories. In order for the subject project to compete with other apartment developments in the unincorporated vicinity in terms of on-site signage advertisement, it is only equitable and appropriate that the subject project be entitled to a similar level of project signage as these other apartment developments. (See photographs accompanying this application of signage for other apartment projects in the same unincorporated vicinity and zone as the subject property).

3. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.

To the contrary, approval of the requested variance will only serve to improve the public welfare by making it easier for visitors of residents of the project and goods deliverers to locate the apartments; in turn, this could lead to a reduction in local traffic congestion because these visitors to the apartments will easily be able to locate the development. The Design Control Board ("DCB") of the Department of Beaches & Harbors is charged with regulating all signage in Marina del Rey through the application of standards set forth in the DCB's Revised Permanent Sign Controls and Regulations (which is a section of the Manual for Architectural Standards of the certified LCP); therefore, your

Commission can be assured any project signage subsequently approved by the DCB will be in conformance with applicable sign regulations and in concert with the community character in terms of design and quality. Approval of the requested variance will in no way be injurious to other property or improvements in the same zone and vicinity because the applicant is simply requesting to be able to develop project signage on-par in terms of quantity and size with other existing apartment projects in the unincorporated vicinity.

"To enrich lives through effective and caring service"

Los Angeles County
Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 18, 2006

Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

PROJECT #R2005-00234 (COASTAL DEVELOPMENT PERMIT, PARKING PERMIT, VARIANCE) – JOINT RECOMMENDATION REGARDING REQUEST TO PROVIDE IN-LIEU FEE TO SATISFY AFFORDABLE HOUSING REQUIREMENT – THE SHORES – PARCELS 100/101 – MARINA DEL REY

Recommendation:

The Regional Planning Department (DRP), Community Development Commission (CDC) and Department of Beaches and Harbors (DBH) recommend approval of the above referenced application requesting payment of an in-lieu fee in satisfaction of the affordable housing requirements of the Marina del Rey Affordable Housing Policy (Policy).

The Policy provides that, in order to fulfill affordable housing requirements for new Marina housing developments on a consistent basis, the following requirements must be met by all projects proposing newly constructed residential facilities in Marina del Rey:

A) A requirement that 10% of all residential units constructed in Marina projects, spread among all unit types available in the project, be designated low-income units for a term of 30 years, where feasible;

B) In cases where a proposed project consists of both newly constructed units and preexisting units to be renovated in accord with a Board-approved parcel renovation/lease extension plan, required on-site affordable units may at the discretion of the Regional Planning Commission be located in preexisting on-site units fully renovated in accord with such approved plan; and,

C) A three-step approach for managing affordable housing requirements in Marina del Rey must be utilized.

The three-step approach to managing affordable housing consists of the following:

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1. An analysis is to be provided, on a case-by-case basis, illustrating whether the requirement for construction of on-site 10% low-income housing, consisting of a mix of all project unit types, is "feasible", in accordance with the requirements of the Mello Act[1]. This analysis is required to consider the use of a density bonus, low interest bond financing, tax credits and other mitigation measures that may make on-site affordable housing economically feasible;

2. If on-site affordable housing is demonstrated to be economically infeasible for the developer, analyze and determine whether it is economically feasible for the County, in its role as landowner, to make sufficient economic concessions to accommodate the required affordable housing on-site; and,

3. If on-site affordable housing is determined to be infeasible for both developer and County, developer in-lieu fees in the amount of $7.11 per net rentable square foot of development for each unit built (as currently adjusted for increase in the Consumer Price Index, as per Policy requirements) is to be utilized as a method of providing the same number of affordable housing units off-site when mitigation is either unavailable or undesirable, or is insufficient to restore on-site feasibility.

   In addition, the CDC is authorized to levy an annual fee of $125.00 per affordable unit built on-site (adjusted annually in accord with changes in the year-end value of the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Area) to defray costs of ongoing compliance inspection and reporting regarding any on-site or off-site affordable units constructed.

The Policy further provides that a determination of whether affordable housing can feasibly be provided on-site is to be made through a report and finding jointly provided to the Regional Planning Commission (RPC) by DRP, CDC and DBH.

Current State of Application/Analysis:

The applicant has provided its financial information in order that its request for a determination of infeasibility can be assessed. In accord with the Policy, we have prepared an analysis of the economic feasibility, as defined by the Policy, of providing 10% affordable units on-site, as such determination relates to both the applicant and to the County.

A) Developer Return on Cost:

The economic analysis of developer return on cost was completed through the joint efforts of two economic consulting firms – Keyser Marston Associates (KMA) and Allan D. Kotin & Associates (ADK&A). KMA first reviewed the financial information

[1] California Government Code Sections 65590 and 65590.1.

submitted by the applicant, finding that the information was consistent with its recent review of the proposed project during the course of the project negotiation process and represented a realistic projection of developer costs and revenues. The result of the analysis indicates that the project will return an approximate 7.3% return on cost, a return below the threshold set for infeasibility in the Policy. A memorandum from KMA and ADK&A is attached as Exhibit 1 and provides the details of the methodology and review, as well as accompanying computation tables illustrating the analysis.

B) Feasibility of County Rent Reduction:

Per the requirements of the Policy, as the County is in control of a key element of development cost (i.e., land cost, as represented by ground rent), if the developer's return is below the Policy-prescribed threshold (minimum 10% return on cost), the County must also assess the amount by which it would be required to lower its rent to restore economic feasibility. However, if the reduction in County rent required to raise the developer return on cost above 10% results in a reduction of 53% or more in County rent, the provision of on-site affordable units is also demonstrated to be economically infeasible from the County's perspective (i.e., the County would clearly encourage alternative uses for the land that would generate a more appropriate return). The second test of economic infeasibility set forth in the Policy would, thereby, be met.

Our analysis indicates that in order to raise developer return on cost above the minimum threshold set by the Policy, the County's apartment rent would be required to be lowered from its current 10.5% to well below 4.4% of gross apartment revenue – a reduction of County rent exceeding the threshold for demonstration of County economic infeasibility. Table 2 attached to Exhibit 1 shows that reducing County rent to 4.4% yields the 8% return on cost to the developer the economic consultants feel is an appropriate current return on cost (which is, nevertheless, below the Policy's minimum 10% return on cost requirement), but amounts to a reduction of a minimum of 58% in County rent. Thus, the provision of on-site affordable units is also economically infeasible for the County.

C) Further Required Criteria for In-Lieu Fee Qualification:

The demonstration of on-site infeasibility required by the Policy includes not only analysis of alternative financial statements – with and without on-site affordable units – but also, as a further precondition to the demonstration of financial infeasibility (and, thus, eligibility to fulfill affordable housing requirements by payment of an in-lieu fee), an exploration of the potential use of available mitigation measures, including the utilization of a density bonus and below-market bond financing and/or tax credits provided to developers of affordable housing, as a means of making on-site affordable housing feasible.

The developer's submission includes a detailed account of its exhaustive exploration and analysis of these potential mitigation measures, including density bonus, state and federal tax credits, and bond financing administered by the California Debt Limit Allocation

Committee and its many sub-programs, as well as the federal TCAC (Tax Credit) program. Our independent review of these potential mitigation measures likewise indicates that the use of other public assistance programs to enable on-site construction of the affordable units is infeasible. Such programs as density bonuses, low income housing tax credits and tax-exempt mortgage financing are either not available or, if available, would require large-scale reconfigurations of the project that are otherwise not allowable under the provisions of the Coastal Act.

D) Construction of Affordable Units Within 3 Miles of the Coastal Zone:

If it is infeasible to build the required affordable units on-site, the Mello Act requires consideration of construction elsewhere within 3 miles of the Coastal Zone, if feasible. At the time the Policy was adopted in 2002, a study undertaken by ADK&A with the assistance of DRP of the relatively few unincorporated areas of Los Angeles County within 3 miles of the Coastal Zone demonstrated there is virtually no vacant or significantly underdeveloped land suitably zoned for, or eligible for rezoning to, multi-family use within these qualifying areas. ADK&A believes the study results still apply. Further, acquisition costs for improved properties that could conceivably be redeveloped for this purpose were much higher than could be supported even for market-rate housing. It thus appears infeasible to consider construction of the required affordable units off-site within 3 miles of the Coastal Zone.

Summary:

Based on the review and analysis of our economic consultants, as well as their investigations of other alternatives that might mitigate a finding of infeasibility and of the feasibility of providing the required units off-site within 3 miles of the Coastal Zone, we recommend that your Commission find that providing the required affordable project component on-site or within 3 miles of the Coastal Zone is infeasible and grant applicant's request for assessment of an in-lieu fee in satisfaction of its affordable housing requirement.

Respectfully submitted,

Regional Planning Department

James Hartl, Director

Community Development Commission

Carlos Jackson, Director

Department of Beaches and Harbors

Stan Wisniewski, Director

Attachment

JH:CJ:SW:ks

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
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LOS ANGELES
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JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

MEMORANDUM

To: Mr. Roger Moliere, Deputy Director
Los Angeles County, Department of Beaches and Harbors

From: James Rabe, Keyser Marston Associates, Inc.
Allan Kotin, Allan D. Kotin & Associates

cc: Richard Volpert, Esq., Munger Tolles & Olson

Date: January 3, 2006

Subject: Review of In-lieu Fee Request – Parcel 100/101

Pursuant to your request Keyser Marston Associates, Inc. (KMA) and Allan D. Kotin & Associates (ADK&A) have reviewed the request by the lessee (Lessee) of Parcel 100/101, also know as the Del Rey Shores apartments, for an exemption from the County policy to provide 10% low-income units at the redeveloped project, and instead to pay an affordable housing in-lieu fee.

BACKGROUND

The Lessee has proposed to raze the existing Del Rey Shores apartments and to replace them with 544 newly constructed apartments. The proposed rents and quality of the project are expected to be near the upper end of rents achieved in Marina del Rey.

The Mello Act requires that new development within the coastal zone set aside 10% of the units for low-income residents. The County of Los Angeles adopted a Policy in 2002 that applied the Mello Act requirements to new development in Marina del Rey, unless (1) it could be demonstrated that the provision of the low income units on-site rendered the project infeasible, and (2) that there was no feasible opportunity for the County to make economic concessions to accommodate the affordable housing on-site.

500 SOUTH GRAND AVENUE, SUITE 1480 ➤ LOS ANGELES, CALIFORNIA 90071 ➤ PHONE: 213 622 8095 ➤ FAX: 213 622 5204

ANALYSIS

The following analysis reviews the feasibility of the inclusion of the affordable units in the project and whether the County can make economic concessions to accommodate the affordable units on-site.

Developer Returns

The Lessee has presented operating and development information that is summarized in Table 1. KMA has reviewed this information and it is consistent with KMA's recent review of the project. At stabilization in 2010, the 489 market rate units are projected to generate $16,087,900 in rent, while the 55 affordable units generate only $391,600 in annual rent. After allowance for 5% vacancy on the market rate units, the net rental revenues are projected to be $15,675,100.

Operating expenses are projected to amount to $4,499,700 and the ground lease payment at 10.5% of revenues is $1,645,900. As shown in Table 1, the net operating income is $9,529,500.

Development costs are projected to be $130,982,900. The net operating income of $9,529,533 represents a 7.3% return on cost. This represents a below market return on costs for a project of this type.

KMA reviews the feasibility of residential development for a number of cities and redevelopment agencies in Southern California. For market rate apartment projects on fee land in high valued locations with podium parking, KMA is currently using a 6.5% return on cost criteria. Projects on leased land and affordable housing projects have higher return on cost requirements. KMA has found that projects that are 100% affordable have return requirements that are 100 basis points higher than market rate projects due to the limited appreciation potential and limited pool of buyers. Likewise, projects on ground leases have a higher return on cost threshold. For a long-term lease (80 to 99 years), the premium may only be 50 basis points. For a short tem lease, under 30 years, the premium could be as high as 200 basis points. This project has a lease term of less than 60 years and the 10% affordability requirement; KMA estimates that the current return on cost requirement for this project is 8.0% or a 150 basis point premium over a market rate project on fee land.

ADK&A has done extensive research on cap rates and return requirements for residential projects in West Los Angeles and Marina del Rey. According to the database

maintained by CoStar and published in the *California Real Estate Journal*, the average cap rate for apartments sold in L.A. County in the third quarter of 2005 was 5.5%. In the judgment of ADK&A, that countywide rate is a reasonable proxy for the cap rate to be applied to a new or refurbished apartment in Marina del Rey with no affordable component and a lease term of 60 years or more. The reasoning for this conclusion somewhat parallels the KMA analysis in that there is likely, even with a long lease term, to be a penalty of 75 basis points for a ground lease. At the same time, it is reasonable to assume that the premium for waterfront apartments is at least that large. To adjust this rate for both the somewhat shorter lease term and the presence of affordable units would, in ADK&A judgment, add approximately 100 basis points, bringing the sale cap rate to 6.5%.

To convert a cap rate into a reasonable return on cost, ADK&A would calculate that return on cost which would yield a profit to the developer of 17-20% of the ultimate sales price. By this standard, the required return on cost would range from 7.8% to 8.1%. A strong argument can be made for the higher rate due to the substantial additional cost and risk associated with entitling a project in the Marina and obtaining a coastal permit. Accordingly, ADK&A would also conclude that the project is infeasible.

County Economic Incentives

As discussed above, the proposed development has a projected stabilized return on cost of 7.3%, which is significantly below the KMA and ADK&A threshold return requirements for an affordable project on leased land. If the County wishes to offer an economic incentive to allow the project to be feasible with the affordable housing units, the County can reduce the rent it collects.

As shown in Table 2, if the County reduces its percentage rent from 10.5% to 4.4%, then the project can generate an 8.0% return on cost. At a 4.4% percentage rate, the County will collect $689,700 in annual rent. This amount is 42% of the rent that is collected at the 10.5% rate, assuming 10% of the units are affordable. Under the terms of the Policy, this level of rent loss makes it infeasible for the County to provide the economic incentives to the project.

Moreover, the rent loss is even greater when compared to the rent that the County could receive if the entire project is a market rate project. If all of the units are market rate, then the net rental revenues would be $16,981,600 as compared to $15,675,100 with 10% affordable units. The County rent would be $1,783,100, rather than $1,645,900, an 8.3% increase. The real loss in rent to the County, if the County provides incentives is

$696,700 compared to $1,783,100. In this context, the County would receive less than 40% of the rent it is entitled to, to support the affordable housing units within the proposed project. Again, this rent loss is contrary to the intent of the Policy.

Finally, there exists a possibility that, under recently passed legislation designed to expand the definition of public works projects, an explicit County rent subsidy to underwrite affordable units would trigger a prevailing wage requirement. Since such a requirement would add 15-20% to the cost, clearly the project would then be completely infeasible.

OTHER POLICY REQUIREMENTS

The County policy also requires that the Lessee demonstrate that the use of other public financing assistance programs to enable on-site construction of the affordable units is not possible or, if possible, completely impractical. KMA and ADK&A would generally concur with the Lessee's representation that such programs as density bonuses, low income housing tax credits, and tax-exempt mortgage financing are either not available due to various physical and statutory limitations or, if available, would require such wholesale reconfiguration of the project as to render it clearly infeasible.

If it is infeasible to build the units on-site, the Mello Act then calls for consideration of the construction of the affordable units elsewhere within three miles of the Coastal Zone. With the assistance of the County Regional Planning Department, ADK&A undertook a study of the cost and availability of land for multi-family construction in the relatively few unincorporated areas of Los Angeles County that are within three miles of the Coastal Zone. This study, which was done in 2002 shortly before the adoption of the current policy, demonstrated clearly that there was virtually no vacant or significantly underdeveloped land suitably zoned for, or clearly eligible for rezoning to, multi-family use within the qualifying areas. ADK&A determined that acquisition costs for improved properties which could conceivably be redeveloped for this purpose were clearly much higher than could be supported even for construction of market rate housing.

While that analysis was done over three years ago, KMA and ADK&A are both of the opinion that there is no reason to believe that prices have eased or availability has improved in the intervening period. If anything, the likelihood of finding a suitable site within the prescribed area is even less now than it was then.

CONCLUSION

KMA and ADK&A have reviewed the proposed project and the costs of providing low income housing on-site. Based on our review and analysis, it is our opinion that the inclusion of the low income housing units on-site renders the project infeasible. Moreover, it is infeasible for the County to provide sufficient economic incentives to provide for a feasible project.

The two firms have also reviewed, albeit in a somewhat less thorough manner, the options available for other public assistance and concur that the Lessee's representations that these options cannot be applied to this project. Nor do we see any reasonable prospect of constructing the required affordable units elsewhere within three miles of the Coastal Zone.

TABLE 1

REVIEW OF LESSEE RETURNS WITH LOW INCOME UNITS
PARCEL 100/101 LEASE EXTENSION
MARINA DEL REY, CALIFORNIA

Project Income (2010 - first stabilized year)	
Gross rental revenues	
Market Rate Units	$16,087,900
Low income Units	$391,600
Gross Scheduled Rent	$16,479,500
Less vacancy (5% of market rate units)	($804,400)
Net Rental Income	$15,675,100
Operating Expenses	($4,499,700)
Ground Lease Payment @ 10.5%	($1,645,900)
Net Operating Income	**$9,529,500**
Total Development Costs	$130,982,900
Return on Cost	**7.3%**

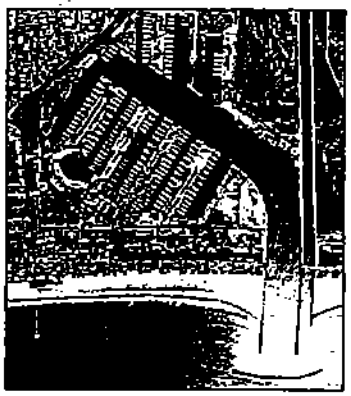
Prepared by: Keyser Marston Associates, Inc.
Filename: Parcel 100; 12/28/2005; JAR

TABLE 2

REVIEW OF LESSEE RETURNS WITH LOW INCOME UNITS AND REDUCED COUNTY RENT
PARCEL 100/101 LEASE EXTENSION
MARINA DEL REY, CALIFORNIA

Project Income (2010 - first stabilized year)	
Gross rental revenues	
Market Rate Units	$16,087,900
Low income Units	$391,600
Gross Scheduled Rent	$16,479,500
Less vacancy (5% of market rate units)	($804,400)
Net Rental Income	$15,675,100
Operating Expenses	($4,499,700)
Ground Lease Payment @ 4.4%	($689,700)
Net Operating Income	**$10,485,700**
Total Development Costs	$130,982,900
Return on Cost	**8.0%**

Prepared by: Keyser Marston Associates, Inc.
Filename: Parcel 100; 12/28/2005; JAR



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November 17, 2005

To: Mr. James Hartl, Director, Regional Planning Department
Mr. Carlos Jackson, Director, Community Development Commission
Mr. Stan Wisniewski, Director, Department of Beaches and Harbors

From: David O. Levine, Chief of Staff to Mr. Jerry B. Epstein, on behalf of The Shores Project. David O. Levine

Re: Application of County Affordable Housing Policy to The Shores Project

For the last several years, the lessee of Parcels 100 and 101 in Marina del Rey have been working on the redevelopment of these parcels, in accordance with the certified Local Coastal Program approved by both the County of Los Angeles and the California Coastal Commission. First, the lessee has negotiated an agreement for an Amended and Restated Lease with the County of Los Angeles. Second, the lessee has submitted an application for a Coastal Development Permit, and an Administrative Draft of an Environmental Impact Report has been prepared and circulated. Our understanding is that the Regional Planning Commission will conduct a hearing on our Coastal Development Permit application in January 2006, which calls for the demolition of 202 units and construction of 544 units on Parcels 100 and 101.

An important element in this process is Regional Planning Commission consideration of the means for the provision of affordable housing made possible by the development. On August 6, 2002, the Los Angeles County Board of Supervisors unanimously adopted the Marina del Rey Affordable Housing Policy and Policy Analysis ("the Policy"), which established the policy for the application of state law, as embodied in the so-called Mello Act ("the Act"), to new residential development in Marina del Rey. While the Policy's goal is that "for all new housing development projects constructed in County-owned Marina del Rey, 10% of the newly constructed units, consisting of a mix of all unit sizes contained

in the project, shall be reserved for low income households for a term of 30 years," ***the Policy also states that "determining feasibility of on-site affordable housing for a project must be undertaken on a case-by-case basis,"*** and concludes furthermore that "it is likely that most new Marina coastal zone apartment projects may well prove to be economically infeasible if required to provide even a minimum number of on-site affordable units."

The purpose of this letter is two-fold: 1) to provide a detailed demonstration as to why on-site provision of the Policy-specified 10% low-income housing units (in this specific case, 55 apartments) would render development of The Shores project economically infeasible; and, 2) to request consideration by the Department of Regional Planning, the Community Development Commission, and the Department of Beaches and Harbors, and a subsequent determination by the Regional Planning Commission, that lessee's payment of the Affordable Housing In-Lieu Fee ("in-lieu fee") and associated administrative and compliance inspection fees prescribed in the Policy shall be utilized as a means of providing affordable housing elsewhere in the unincorporated area of Los Angeles County, pursuant to the Act and the Policy.

The In-Lieu Fee

The Policy stipulates that, in the event that the provision of affordable housing on-site is infeasible, the in-lieu fee imposed shall be in the amount of $6.41 per net rentable square foot, equaling approximately $6,884 per each unit built. This fee is to be periodically adjusted for inflation, which today would be equal to $7.11 per net rentable square foot. ***If approved, the current project would generate an in-lieu fee of approximately $3.8 Million.*** In addition, the Community Development Commission (CDC) of the County of Los Angeles is authorized to levy an annual fee of $125.00 per affordable unit built on-site to defray its costs related to ongoing compliance inspection and reporting.

Developer Return on Cost as a Measure of Project Feasibility

The Policy holds that "initially, provision of affordable housing on-site must be explored" and recognizes that "there are minimum acceptable financial returns ('thresholds') that developers require in order to commit resources to a proposed project." The standard used as a threshold for the evaluation of development projects is its "Return on Cost," or the financial return on the total development cost for the subject apartment project. The Policy asserts "in today's market...a developer, lender, or equity participant in a high-end apartment project developed under a ground lease such as those in the Marina must be reasonably certain of achieving a 10 to 10.5%+ return." The provision of affordable housing units on-site lowers the gross rental income below what would otherwise be received as market rent. ***"If such impact causes the Return-on-Cost to fall below 10%," the County Policy states, "the imposition of affordable***

housing has, by definition, caused the project to become economically infeasible for the developer."

While the Policy states a ten percent return threshold, current information about apartment investment thresholds cited in the most recent relevant data establish a minimum threshold return of 9.01 percent.[1] A nine percent threshold, of course, constitutes an even stricter threshold than the current County Policy

Table 1 calculates the developer's return on cost for the first fully stabilized year of project operations (2010) for The Shores project, assuming that affordable units are provided on-site. The operating assumptions are based on detailed financial information provided to the Department of Beaches and Harbors as well as to potential lenders in our effort to secure construction financing for the project. ***The calculation indicates that the expected return with low-income housing units provided on-site is 8.23 percent. This is well below the nine percent threshold. Thus, the provision of 10% of all residential units for low-income units on-site within The Shores project is deemed economically infeasible.***

<u>County Rent Reduction as a Measure of Project Feasibility</u>

If, as for the project at issue, on-site affordable housing is first demonstrated to be economically infeasible for the developer, the Policy then requires an analysis of whether it is economically feasible for the County, in its role as the landowner of Marina del Rey, to make sufficient economic concessions to accommodate the required affordable housing on-site. This is because the County controls a major element of development cost; namely, the land cost as represented by annual and participation ground rents. The Policy therefore directs the County to assess the extent to which County ground rent would have to be reduced in order to make development of the project economically feasible with on-site provision of the required low-income units. The Policy indicates that a reduction in County ground rent of more than 53% is a threshold that demonstrates the economic infeasibility of providing affordable units on-site from the County's perspective, since the County then would pursue other land uses that would generate a more realistic ground rent for the property.

The analysis presented in Table 1 shows the anticipated operating performance of the project in 2010, the first full year of stabilized operations. The Shores enjoys a "ground rent ramp up" in the early years of the extended lease so that

[1] CoStar Comps data surveyed all Los Angeles County multifamily sales of projects over 200 units between January 1, 2005 and September 30, 2005. The survey indicates an average acquisition capitalization rate of 6.41 percent for operating stabilized projects with fee simple ownership of the underlying land. To equate this return to a return on cost for a new development project on a ground lease, a minimum of 150 basis points should be added for developer profit and a minimum of 100 basis points for the leasehold (vs. fee simple) land ownership. The total minimum required return to demonstrate feasibility is 9.01 percent.

lender return targets can be achieved. In 2010, The Shores will be paying 2.5 percent of gross revenues for ground rent, far below the stabilized ground rent of 10.5 percent.

The analysis showing the County ground rent forgiveness model is provided in Table 2. The Policy clearly states that "in no event is the County obligated to lower its rent or provide other economic mitigation in order to restore developer economic feasibility." Notwithstanding current County policy, ***even if County ground rent were completely eliminated, a measure unlikely to be acceptable to the County, the anticipated developer return on cost in 2010 of 8.53 percent would fall below the threshold return of nine percent, identified above, let alone the current County policy threshold of 10 percent.***

Thus, pursuant to the Policy, the provision of affordable housing on-site is neither economically feasible for the developer nor for the County of Los Angeles.

Analysis of Available Mitigation Measures

The Policy also requires the developer to explore the potential use of available mitigation measures, including the utilization of a "density bonus" and below-market bond financing and/or tax credits provided to developers of affordable housing, as a means of making on-site affordable housing feasible. We have explored such options.

Density Bonus

State law permits local government to provide a developer a "density bonus" to increase the number of dwelling units in a project above that otherwise allowed pursuant to the maximum density of a site. In exchange for maintaining a specified percentage of the project units as affordable housing units for a specified term, the jurisdiction awards the developer additional ("bonus") market rate units, which are intended to restore the developer's Return-On-Cost for the project to an acceptable threshold.

The lessee of Parcel 100 and 101 originally proposed to take advantage of the possible density bonus to build a 780-unit project, but the plan submitted was rejected for a number of reasons by the County. The Administrative Draft of the Environmental Impact Report (Section 6.4.2) discusses the infeasibility of the use of a "density bonus" due to a variety of environmental, traffic, construction cost, and other factors. Such a huge development on the site would result in several unavoidable significant adverse impacts, and the project would not be consistent with the character of the surrounding Marina del Rey and Venice community.

Consideration of Other Mitigation Measures: Below-market bond financing and tax credits

As noted above, the Policy requires the developer to explore the potential for economic assistance, such as below-market bond financing or grants and/or tax credits, in order to assess whether eligibility for such programs would make the provision of affordable housing on-site feasible.

There are a large number of specially targeted programs giving financial assistance to affordable housing projects in, for example, designated redevelopment areas, for public agency developed housing and/or for rehabilitation and special tenant programs (e.g., for teachers, etc.). However, the two main sources of possible financial aid for affordable housing for privately owned/developed mixed-income development projects (i.e., containing both affordable and market rate units in the same development) are:

1) State Tax Exempt Bond funding and;
2) Federal and State Tax Credits.

Both programs are subject to allocation of a finite funding amount and both are administered by State of California commissions, under guidelines prescribed by federal and state law.

1. Federal and State Tax Credits: Administered by the California Tax Credit Allocation Committee ("TCAC").

Congress replaced traditional housing incentives (e.g., accelerated depreciation etc.) with a federal tax credit that enables low-income sponsors and developers to raise project equity through the sale of tax benefits to investors. Recognizing the high cost of development in California, the Legislature authorized a state low income housing tax credit program to augment the federal tax credit program. The State credit is available only to a project that has previously received or is concurrently receiving an allocation of federal tax credits. In California, the demand for housing tax credits has traditionally exceeded the supply by approximately 3 to 1. State and federal law requires that at least 10% of the annual credit be awarded to projects that materially involve nonprofits; State law requires that 20% of the annual credit be awarded to projects located in rural areas, and that 2% be set aside for projects of 20 or fewer units.

Federal Tax Credits.

Federal tax credits fall into two categories: "9% Credits" and "4% Credits" (which were the credit rates set in 1987). The credit rates are subject to adjustment to maintain a present value of 70% and 30%, respectively. Although the federal credit is taken over a ten year period, the Internal Revenue Code requires that

the project remain in compliance for a minimum of 15 years; however California's program generally requires maintaining affordability for 55 years.

The 9% Credits are subject to an annual cap based on state population, a pro rata share of unused credits in a national pool from prior years and any returned credits from a credit recipient. The 9% Credits can only be obtained for new construction and where there is no federally subsidy (e.g. no tax exempt bonds). Obtaining an allocation of 9% Credits is a highly competitive process.

Developments that are financed with the proceeds of tax-exempt bonds may receive the 4% Credit. There is no annual cap on 4% Credits, so they are generally awarded to projects that have obtained tax exempt bond financing.

State Tax Credits.

The State tax credit supplements the Federal Tax credit program. The State tax credits are taken over a four year period in contrast to the ten year allocation period. The state credit cap is $70 million, indexed for inflation (in addition to any unused or returned credits from prior years).

2. Bond Financing Programs: Administered by the California Debt Limit Allocation Committee ("CDLAC").

Congress imposed an annual limit on the dollar amount of tax-exempt private activity bonds which may be issued by a state, based on a state population. This limit applies to many kinds of bonds (including economic development, student loan financing, single family housing and multiple family rental housing). CDLAC sets an allocation of this total resource among the bondable categories each year and then judges applicants on a competitive basis. The amount set aside for mixed income projects (if any) cannot exceed 25% of the total residential housing pool, and all bonds are technically applied for by a state or local government agency (e.g., Board of Supervisors) who pass qualifying resolutions after public hearing, approving the proposed project. Projects are required to be restricted for at least 30 years; however, many projects are restricted for 55 years.

Criteria for Eligibility and Evaluation Criteria:

Although there are differences in details, both programs have much in common in terms of threshold eligibility and evaluation criteria. In general, even the minimum eligibility requirements for each program are higher than would be required for the Project by the Policy. Further, even assuming the minimum eligibility requirement is met, the competitive evaluation criteria is heavily weighted toward projects that would be unlikely to be built in the Marina.

Initial Eligibility Threshold:

1. TCAC (Tax Credit) Program:

   Section 42(g) of the Internal Revenue Code requires either of the following:

- A minimum of 40% of the units must be restricted and occupied by households whose incomes are 60% or less ("low income") of area median gross income, adjusted for family size or

- A minimum of 20% of the units must be restricted and occupied by households whose incomes are 50% or less ("very low income") of area median gross income, adjusted for family size

2. CDLAC (Bond) Program:

   Section 142(d) of the Internal Revenue requires either of the following:

- A minimum of 40% of the units must be restricted and occupied by households whose incomes are 60% or less ("low income") of area median gross income, adjusted for family size or

- A minimum of 20% of the units must be restricted and occupied by households whose incomes are 50% or less ("very low income") of area median gross income, adjusted for family size

In addition to the above requirements, CDLAC has imposed an additional requirement that a minimum of 10% of the units must be restricted and occupied by households whose incomes are 50% or less ("very low income") of gross median area income. See Section 17(I)(B)(1) of the CDLAC Procedures, adopted July 20, 2005.

The Policy requires that 10% of all newly constructed residential units be reserved for low income households for a period of 30 years. Projects developed in accordance with the Policy's requirement would not qualify for either program.

Even assuming the ability to meet the minimum qualification threshold, the range of scoring points granted under the evaluation criteria in both cases heavily favor projects which either far exceed the minimums above referenced (many extra points are available for moving to 40% or 50% affordable units), or which prefer projects with large unit sizes or on-site project programs and situated in lower-cost or otherwise targeted areas.

Evaluation Criteria:

Both programs have similar philosophy in favoring, certain types of projects and features of projects which are not likely to be built in the Marina. Examples of some of these provisions are as follows:

1. CDLAC (Bond Program):

- Exceeding Minimum Affordability – 7 points will be awarded for each additional 10% of affordable housing at very low income, if it is in a fully affordable complex and 3 points will be awarded if it is in a mixed-income project

- Exceeding Minimum Affordability – 2 points will be awarded for each additional 10% of affordable housing at low income, if it is in a fully affordable complex, and 1/2 point will be awarded if it is in a mixed-income project

- Exceeding Minimum Affordability - One point will be awarded for each percentage point that the rental rate of each restricted unit type is more that 20% below the rental rate of the same unit type in the comparable market rent properties as demonstrated in a market study

- Large Family Units – 5 points will be awarded where at least 30% of the restricted units are three-bedroom or larger units

- Other Public Funds - Up to 10 points will be awarded if the project has acquired other direct or indirect public funds (direct grants, below market loans etc) 1 point for every 1% of public funding to the project

- Community Revitalization Area - Up to 15 points will be awarded if the project is located in a "Community Revitalization Area" (Programs demonstrate public spending on job training, after school enrichment and other "community enrichment " programs)

- Site Amenities - Up to 10 points will be awarded for each service amenity on-site, which may include: a) after school programs; 2) licensed child care: 3) educational classes (such as English as a second language, computer training etc.); 4) contracts with services such as "assistance with daily living activities etc.

There are also large point additions (10 points) for projects that are Federally assisted "At-Risk Projects" (affordable projects which are eligible to go to market rate) and for "HOPE VI Projects" (funded by grants from the "Urban Revitalization Program under HUD for blighted, economically disadvantaged areas etc.).

As demonstrated, the competition for the limited amount of bond money is heavily stacked in favor of projects which are either 100% affordable (even if a mixture of very low and low) or which have a fairly high percentage of affordable units and some extra features which serve either a disadvantaged population (after school, child care programs and educational programs on-site), and which

provides a significant number of affordable 3-bedroom or larger units and are sited in areas targeted for redevelopment help.

Because these programs are highly competitive and favor projects in areas targeted for redevelopment help that provide far more affordable units than required by the Policy, an area like the Marina has little if any chance of getting an allocation even if a project within the Marina meets the minimum criteria.

2. TCAC (Tax Credit) Program:

The evaluation criteria here are similar in focus. The 9% Credits also utilize a competitive scoring system in which points are awarded for a variety of items, ranging from serving lower income tenants, to achieving energy efficiencies to the degree that the project will contribute to revitalization efforts in the area in which it will be located.

Because both the 9% Credits and the 4% Credits are allocated only for restricted units, even though one might technically qualify at a minimum of 20% affordable units, sponsors very often designate 100% of the units as affordable. Otherwise only the affordable percentage (e.g., 20%) of project costs would be considered when determining how much credit could be allocated.

The amount of the credit is a complex calculation, and the actual tax credit amount is based on actual sources and uses of funds, and the actual credit rate.

As with the Bond program, it is highly unlikely that either the 9% Tax Credit or the 4% Tax Credit could be received, or would be very valuable, for a Marina project, even if the minimum threshold was met.

Our careful examination of these alternatives confirms the conclusion reached by the County in the analysis provided in the 2002 Policy: "While useful in many affordable housing venues, these methods are likely to have limited utility or availability in the Marina."

Conclusion

The Policy states that "the availability of in-lieu fees as a substitute for on-site construction is limited solely to projects in which it is demonstrated that on-site construction of the required affordable units is infeasible." Based upon the above calculations and research, we request that the Department of Regional Planning, the Community Development Commission, and the Department of Beaches and Harbors consider and recommend, and that the Regional Planning Commission subsequently find, that The Shores redevelopment project is eligible to utilize the in-lieu

fee outlined in the Policy as a substitute for on-site provision of affordable housing.

Where it is not feasible to provide the affordable units on-site (as demonstrated above), the Policy recognizes that the Act requires the County to utilize the developer in-lieu fees to provide the affordable units ***"elsewhere in unincorporated areas of the coastal zone or within three miles thereof, and, if infeasible within this target area, then elsewhere within unincorporated County territory."***

We respectfully request that the Department of Regional Planning, the Community Development Commission, and the Department of Beaches and Harbors address in its joint recommendation to the Regional Planning Commission whether it is feasible to provide the affordable units within the coastal zone, or within three miles thereof, and, if not feasible within this target area, then how and where our in-lieu fees will be applied to satisfy both the Act and the Policy.

As noted above, the in-lieu housing fee for The Shores is estimated to be $3.8 million. This substantial fee should be used by the Los Angeles County Community Development Commission to provide "gap financing" for the development of affordable housing throughout the County. The fees can make up the difference between the combination of available public/private funding sources and the cost of producing affordable housing.

There are several government programs that provide funds to assist low-income housing developers in bridging the gap between the cost of development and traditional real estate financing sources. Assistance from HUD programs and Community Development Block Grants, typically used by low-income housing developers, are not as readily available as in previous years. In addition, the rapidly spiraling cost of land and construction has resulted in unexpected increases in housing development costs. Never has the need for additional gap funding been more pressing.

Whereas providing low-income housing on-site would create 55 units for qualified families, the in-lieu housing fee can be leveraged to provide a greater number of units elsewhere within the County of Los Angeles. For example, the City of Industry has an affordable housing fund which is administered by the Los Angeles County Community Development Commission. This program takes set-aside tax increment funds generated by development in the City of Industry and uses the money to create affordable housing throughout the County. Since inception the fund has helped create over 5,000 affordable units with a contribution of over $95 million.

Using the City of Industry Housing Fund guidelines, the maximum funding per unit is $60,000. Assuming similar limitations could apply to ***the in-lieu housing***

fees generated by The Shores, a $3.8 million in-lieu fee could be leveraged to create a minimum of 63 affordable housing units, 15% more units than the 55 units that would be provided on-site. In the City of Los Angeles, its Department of Housing guidelines stipulate funding of $50,000 per unit, which, in the case of The Shores' in-lieu fee, would result in the production of 76 affordable units—or 38% more affordable units than would be provided on-site under the County policy.

Finally, provision of the affordable housing units on-site in Marina del Rey would have a significant impact on the potential revenue stream to the County from The Shores ground lease, which, in turn, would have a negative impact on the availability of County social services to lower-income residents throughout the County. On-site low-income housing would lower the annual ground rent payments to the County by The Shores project of approximately $118,000 per year (in $2005) in the first stabilized year of occupancy alone. On a cumulative basis, over the extended term of the ground lease, this represents a minimum loss to the County of $15.8 Million (or $6.4 million in current dollars) of potential ground rent revenue.

In the current fiscal year, it should be emphasized, over 50 percent of the gross ground rent revenue paid by the lessees of Marina del Rey to the County of Los Angeles was transferred to the County Department of Health and Human Services to fund County health and human service programs serving lower-income residents of the entire County.

Lower-income residents of Los Angeles County will be far better served by The Shores' payment of the available in-lieu fee rather than provision of the affordable housing on-site. Payment of the fee will support the production of proportionately more affordable units elsewhere, and County public health care services for the poor will not be further compromised.

Please do not hesitate to contact me if there are any questions about the information provided herein.

Table 1
Parcel 100/101: The Shores
Project Feasibility with 10% Low Income Units Provided On Site

Project Income
(Based on First Year of Stabilized Operations, 2010)

Gross revenues, 2010		
Market Rate		$16,087,877
Low Income		391,629
Total Gross Potential Rent		$16,479,506
Less Market Vacancy @	5.00%	(804,394)
Net Revenues		$15,675,112
Less Operating Expenses		(4,499,692)
Less Ground Lease Payment @ 2.50%		(393,832)
Net Operating Income		**$10,781,588**
Total Development Cost (without in-lieu fee)		$130,982,850
Return on Cost		8.23%

Table 2
Parcel 100/101: The Shores
Project Feasibility with 10% Low Income Units Provided On Site
County Ground Rent Forgiveness

Project Income
(Based on First Year of Stabilized Operations, 2010)

Gross revenues, 2010		
Market Rate		$16,087,877
Low Income		391,629
Total Gross Potential Rent		$16,479,506
Less Market Vacancy @	5.00%	(804,394)
Net Revenues		$15,675,112
Less Operating Expenses		(4,499,692)
(No County Ground Rent Payment)		(0)
Net Operating Income		**$11,175,420**
Total Development Cost (without in-lieu fee)		$130,982,850
Return on Cost		8.53%

Project R2005-00234-(4)
Coastal Development Permit No. 200500002-(4)
Parking Permit No. 200500004
Variance No. 200500004

Del Rey Shores

Public Comment

9770 CULVER BOULEVARD CULVER CITY, CA 90232-0507 www.culvercity.org

January 18, 2006.

Rick Kuo
County of Los Angeles
Department of Regional Planning
Impact Analysis Section, Room 1348
320 West Temple Street
Los Angeles, CA 90012

Culver CITY

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE SHORES PROJECT
County Project Number R2005-00234
Case Numbers RENVT200500040, RCDPT200500002, RVART200500004, RPKPT200500004
State Clearinghouse Number 2005071080

Dear Mr. Kuo:

The following points are the City of Culver City's official comments on the DEIR for the Shores Project (case numbers noted above):

1 The DEIR states in Section 5.2 ("Noise") that construction noise would represent a short-term significant impact based on the potential to exceed the County noise standards and two-plus-years construction period of the Shores Project (the "Project"). Also identified as a potential significant and unavoidable impact are vibration impacts that are associated with the development of the Project. The DEIR states that while mitigation measures have been provided to reduce the impacts to the maximum extent feasible, the impact of construction activity exposing nearby sensitive receptors to noise levels in excess of the County's Noise Control Ordinance Standards, would remain unavoidably significant. The County will need to adopt a Statement of Overriding Considerations and explain that because of the Project's overriding benefits, the County is approving the Project despite its environmental harm. The reasons for this action must be based on the Final EIR.

2 The DEIR states in Section 5.5 ("Visual Quality") that construction-related activities and emissions would result in a significant impact. Further, the DEIR states that no feasible mitigation exists which would reduce these emissions to below the SCAQMD's recommended thresholds of significance. Therefore, the construction-related emissions for the Project, although short-term, would be unavoidably significant. Again, the County will need to adopt a Statement of Overriding Considerations and explain that because of the Project's overriding benefits, the County is

THOMAS GORHAM DEPUTY COMMUNITY DEVELOPMENT DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
TEL 310.253.5710 FAX 310.253.5721 planning@culvercity.org

approving the Project despite its environmental harm. The reasons for this action must be based on the Final EIR.

3 The DEIR states in Section 5.5 ("Visual Quality") that with respect to impacts of shade/shadow that exposure of adjacent uses to shadows cast by the Project would be limited in duration to winter months and would vary depending upon the time of day. Therefore, given the limited duration and intermittent nature of the impact, the DEIR concluded that shade and shadow impacts associated with the Project are not considered significant. Figure 5.5-6 depicts Shade/Shadow effects during Winter Solstice at 9:00 AM and 3:00 PM. There appears to be significant impacts to surrounding areas during this time. It is not clear in the DEIR how it was determined based upon the information presented that the impacts from shade/shadow were found to be not significant. The Final EIR should explain further the thresholds or standards used in making this determination.

4. The DEIR states in Section 5.6.2.2 ("Traffic Generation Methodology") that the traffic study upon which the Transportation Implementation Program ("TIP") peak hour rates were derived identifies AM peak-hour rates and were used in the analysis. This traffic study referred to in footnote 2 in Section 5.6.2.2 is dated January 17, 1991. If this information was used in the analysis, it appears that the most recent data has not been used to address potential impacts. 14 years have elapsed between the circulation of the DEIR and the referenced study. It can be assumed that significant changes have occurred in the Project area during this period of time, especially with respect to traffic impacts. The Final EIR should address whether or not the most recent data was used in conducting the traffic impact analysis.

5. The DEIR states in Section 5.6 ("Traffic/Access") that the Project is expected to result in one significant traffic impact at the intersection of Lincoln Boulevard/Mindanao Way during the AM peak hour and points to mitigation measures presented under Section 5.6.6 of the DEIR. The mitigation measures provided in this Section describe the payment of traffic mitigation fee imposed by the County, which is intended to fund roadway improvements. The DEIR does not, however, provide what those roadway improvements are and how they will mitigate the traffic impacts of the project. The DEIR in Section 5.6.6 also states that the County Public Works Department prefers to implement the roadway improvements funded by the mitigation fees as a single project, but also provides a mitigation measure in case the County decides that roadway improvements are necessary immediately. No explanation however is given to how this determination will be made and when, if at all, it will be made. Further, reference is made to Appendix G (TIP) of the Marina.Del Rey LUP and the roadway improvements described therein and that these measures would reduce traffic impacts of the Project. However, there is no reference to what these improvements are and how they mitigate the traffic impacts. The Final EIR should describe more in detail what Appendix G provides and how these measures will mitigate the significant traffic impacts of the Project.

6. The DEIR describes in Section 5.6.7.3 ("Cumulative Mitigation Measures") the

intersections and specific mitigation measures that would be funded by "Category 1" and "Category 3" transportation improvements. No discussion is provided with respect to what "Category 1 and 3" transportation improvements are or what they may entail with respect to the Project and surrounding area. In addition, this Section fails to address the impacts of the imposition of the mitigation measures described in this Section of the DEIR. The Final EIR should address the potential for impacts associated with the imposition of the proposed mitigation measures.

7. The DEIR states in Section 5.6.8 ("Unavoidable Significant Impacts") that although the applicant for the Project will mitigate the Project's contribution wherever possible (by paying its fair share of improvements designed to alleviate the traffic impacts of the Project), cumulative impacts will remain significant at some of the intersections outside the County. The DEIR identifies that there are potentially significant impacts to these intersection, but fails to identify which intersections could be affected and the possibility of mitigating these impacts. Such mitigation should have recognized cooperation with the City of Culver City (the "City"), since the Project will directly impact intersections within the City's jurisdiction. The DEIR also identifies the cumulative traffic impacts at the intersection of Lincoln Boulevard and Washington Boulevard and states that no feasible physical improvements have been identified for this intersection. If the Project identifies that the impacts at the intersection of Lincoln Boulevard and Washington Boulevard would remain unavoidably significant, then the County will need to adopt a Statement of Overriding Considerations and explain that because of the Project's overriding benefits, the County is approving the Project despite its environmental harm. The reasons for this action must be based on the Final EIR.

8. The traffic generated by the project will impact Washington Boulevard, on which Culver CityBus Line 1 runs; the project will impact the ability of Culver CityBus to maintain the schedule of Line 1.

9. The traffic study indicates that the Shores development will generate 1,354 net new trips per day. The peak hour trips are 120 in the AM and 111 in the PM. The traffic distribution for this project determines that 15% of the generated traffic will pass eastbound and westbound through the intersection of Washington Boulevard and Lincoln Boulevard. The added capacity demand at this intersection cannot be mitigated because there are no feasible measures available. It is reasonable to expect that the same projected trips destined to use east-west Washington Boulevard at Lincoln Boulevard will be traversing the signalized intersections of Washington Boulevard at Glencoe Avenue/Costco Driveway and the stop controlled 'T' intersection of Washington Boulevard and Walgrove Avenue in the City of Culver City. These two intersections shall be evaluated in the traffic study to determine the impacts of the added trips generated by the Shore project. Note: Table 4.0 – 1. Related Projects needs jurisdiction changes for Map Numbers 1, 2 (LA), 7 and 8 (CC).

If you have any questions, please contact Jose Mendivil at the Culver City Planning Division at (310) 253-5710.

Sincerely,

Thomas Gorham
Deputy Community Development Director

TG:lrm

Copy:

Charles Herbertson, Public Works Director
Steve Cunningham, Transportation Director
Carol Schwab, City Attorney
Chief Jeff Eastman, Fire Department
Chief Bill Burke, Police Department
Susan Evans, Community Development Director
Todd Tipton, Redevelopment Administrator
Richard Gallagher, Fire Marshall
Jerry Ichien, Redevelopment Project Specialist
Diana Chang, Transportation Management Analyst
John Rivera, Public Works Senior Management Analyst
Susan Yun, Senior Planner
José Mendivil, Assistant Planner
Max Paetzold, City Traffic Consultant

December 12, 2005

RECEIVED
DEC 14 2005

Planning Commission
320 West Temple Street
Los Angeles, CA 90012

RE: Coastal Development Permit T200500002, Variance T200500004, and Parking Permit T200500004

Gentlemen:

I am not able to attend your meeting January 25, 2005 regarding the above-referenced matters. However, I would like to respectfully voice some major concerns I have about this project:

1. I am quite concerned about the added density in Marina del Rey and the impact it will have on the ever-increasing traffic and usage of local facilities. It has become very unpleasant to get around in Marina del Rey, and too many projects are occurring in too short a time. Those of us that live here are paying the price in an unacceptable traffic and noise level. I don't feel that sufficient thought has been given to mitigating our traffic issues. And parking at local shopping areas has become unbearable.

2. I am concerned about the height of the proposed project on this side of the marina. The marina was developed for the benefit of boating in Los Angeles County, and I am very concerned about the impact of this project on wind patterns as they affect sailboats in particular.

3. I don't feel any variance should be granted for additional signage. The Los Angeles county signage code should be adhered to for any and all projects in the marina.

4. More thought has to be given to setbacks than was given to the recently built project at the southeast corner of Via Marina and Bora Bora Way. What used to be a pleasant corner visually now has construction right up to the street. I couldn't believe what you allowed to happen there! I hope you don't ever let that happen again!

5. I am deeply concerned about the loss of an open feeling and sky view and morning light from many many units in my condominium complex located right across the street to the west. Many of us bought our units because of the openness and "feeling" of our complex.

6. I don't feel that the applicant should be permitted to pay an affordable housing in-lieu fee instead of providing requisite affordable housing units. The complex should be required to have the affordable housing required by law.

7. I don't feel that the complex should be larger in number of units than the existing complex.

8. I don't feel that the complex should be built higher than the existing complex.

9. I am opposed to providing residential compact parking spaces. I'm tired of having to park in these spaces because there is no full-size alternative and not being able to get my doors open. I'm tired of parking hassles all over Los Angeles. There should be more than enough full-size spaces, or fewer units should be built.

Respectfully submitted,

Sue Miller
Owner since January of 1979
4150 Via Dolce, #138
Marina del Rey, CA 90292

Donald and Barbara Mintz
3766 Via Dolce, Marina del Rey, CA 90392
310-822-1410

RECEIVED
JAN 17 2006

January 11, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project: Project #R2005-00234-(4)

Dear Mr. Kuo:

We are the property owners of record for 3766 Via Dolce, Marina del Rey, CA 90292 and We are writing to object to the planned Project #R2005-00234-(4) known as "The Shores Project".

We are concerned about the environmental effects of this project including increased traffic, increased sewage needs, and the possibility of methane gas exposure due to the excavation of the property for the parking areas. Another concern is the potential changes to the drainage system. With any increase in paved areas and any potential changes to the grade of the land, we are concerned about possible flooding to our common areas and units especially on the east side of the complex.

This project, located immediately to the east of our condominium complex is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant averse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly onto Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently, many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces at Del Rey Shores. Some Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for your consideration in this matter.

Sincerely,

Donald Mintz

Barbara Mintz

Mr. Rick Kuo
County of Los Angeles
Department of Regional planning
320 West Temple Street
Los Angeles, CA 90012

RECEIVED
JAN 17 2006

January 9, 2006.

Re The Shores Project, CPN. R2005-00234-(4)

Dear Mr. Kuo,

I have just finished reading the notice of preparation for the Shores Project. I notice that the document has no signed authors. No one comes forward to take responsibility for this document. I am assuming that the document was written by consultants to the developer, and that the attached document entitled Initial Study with the staff member Kevin Johnson is a summary of this report, done by your office based on the words of the Notice of Preparation. Please correct me if I am wrong.

I have found the report riddled with errors of such an obvious nature that I question whether the authors have any expertise at all. The fact that they are not identified to the interested parties of this project, and we are unable to learn their bona fides, leaves me with a very uneasy feeling as to the value of the expertise of the Developer's advisors.

Let me tell you my expertise. I am a professor of mathematics at Purdue University. I own the two story town house on the Northeast corner of the Marina Strand Colony II right opposite the intersection of the private road Dell Avenue and the alley which extends Panay Way. As Panay Way approaches my townhouse, it develops a considerable slope. Last winter I watched the water pour down this slope. The
electrical room under my house flooded twice last winter, each time cutting off the electricity to the northern part of the condo association.

So you see, not only am I well qualified to spot shoddy research and reasoning, but my location gave me the occasion to spot the errors in the report, which I will now enumerate.

2.0 Site Characteristics

I have been thinking for some time about the type of errors illustrated in this two paragraph section. These types of errors occur in mathematics and physics texts. The errors come about because the author is trying to say too much too fast, and introduces ambiguities or misconceptions which makes the thread of the argument incomprehensible and sometimes wrong. It confuses the reader and worse,

confuses the author.

In the first paragraph the promiscuous use of parentheses are confusing.
"High-density residential uses are situated to the north
(north of Dell Avenue, a private alley) and to the east (east
of Via Marina). Land uses south and west are generally characterized by medium-density residential areas (south of Via Dolce). "

The first parenthesis introduces an unimportant ambiguity and a key fact. The ambiguity is; what does it mean to be north of a north-south street? As a modifier of "to the north [of the project]" it is meaningless. However it does distract from the key fact, that the developers own Dell Avenue, and it begins the process of causing the reader to guess what he thinks the author means. The second parenthesis is actually helpful, but it establishes the tradition of using parentheses.

The next sentence reads:
"Land uses south and west are generally characterized by medium-density residential areas (south of Via Dolce). "

What is the role of 'south of Via Dolce' here? In connection with the next sentence "Storage units also occur west of the Dell Avenue alley.", it seems to imply there is nothing west of the project but storage areas. However I believe someone corrected the author because the west consists of low density stand alone houses of two or three stories and the condo association of two story townhouses whose density is 68 units on 2.75 acres = 24.7 units/acre. Saying it another way, every dwelling west of the Shores has its own private garage!! However that sentence tells us something extremely important, The storage areas are touching the Marina Strand Colony II's wall and are only inches away from exotic ornamental trees and about 10 feet from the dwellings.

Combined with the hint in the first parentheses, you can conclude, and it is true, that the developer owns those storage facilities. Now the last sentence in the next paragraph reads:
"All existing on-site structures and other
improvements would be demolished and replaced with 544 apartment units in a series of 12 five-story apartment buildings with appurtenant facilities."
This implies that demolition will be carried out within inches of our trees and shrubs and within feet of our homes!!

This changes the usage of the word impact from the context of '5 story neighbors would impact our privacy' to one closer the sentence: A meteor impacts New York City. This sentence: 'I will smite all the buildings on my land' is unambiguous. However it conflicts with the Landscape and Hardscape Plan, where the storage areas are left intact. This confusion is very serious. A plan should not have contradictions of such magnitude. An important issue is space. How close will these five story buildings come to us?

What is the closest five or more story building to the developed area? There is a large 13 story building in 300 feet to the north of the project. It is 1300 feet to the southern edge of the project. So the proposed large buildings will extend far from any comparable sized building, definitely changing the character of the area.

How do I know these measurements? I used Googles' satellite maps. They provide a scale on the maps which I used for estimating the density of Marina Strand Colony II and the distance of the project from the truly large building. The height of the proposed buildings impact us and all the area far from the original high building. This is not a trivial change.

2.2 Landforms and Geologic Features

This section claims that the project is approximately 10 feet above sea level. Our documents we received with the purchase of our home claimed we were 15 feet above sea level and the project is higher than we are. A glance at Figure 2 in the NOP will show a 20 feet contour line heading into the project. This error is very disturbing given the expertise necessary to control flooding. I would hope that a more correct and detailed analysis would be included in the documents. I don't think the developers can change the height of the Panay extension, which also services various levels of the Archwood's parking garage. I fear for my home if the developers actually remove the wall behind my house, given the rapid course of water I saw last Winter and Spring.

3.2 Residential Development

Again the developers are announcing that they intend to demolish all existing site improvements. How can the planning commission give a permit based on such an ambiguous document. I'll bet the records are full of small homeowners whose arguments were denied because of similar contradictions and ambiguities. It seems only fair that the Shore's Project be held to a similar standard.

With regard to the variances requested in 3.1:

I note that the Developers are requesting outsized sinage permits. Their argument is that some competitors are using outsized sinage and it would not be fair to restrict the Shores regulation sized signs. I object to that varience. I would like to have the Developers on record as favoring fairness.

Also with respect to exempting the Developers from building 10% affordable housing by paying a penalty tax. I object to that also. I feel this is such a wonderful area to live in and middle income people shouldn't be locked out. To live by the beach is somewhat like using the beach, and it is one of California's great laws that everyone should have access to the beach. Denying affordable housing to people like me who are not rich is not fair since the laws are supposed to facilitate some housing for lower income people. I think it is a bad habit to "bribe" the County to

avoid following the laws. It's not fair.

Thank you for reading all this,

Dan Gottlieb
3516 via Dolce
Marina del Rey
California 90292

RECEIVED
JAN 17 2006

January 10, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Dear Mr. Kuo,

I am writing concerning the "The Shores Project" in Marina del Rey. I am not opposed to the project, just its size. I own a home directly to the west of the project and have many concerns about the effect it will have on my neighborhood.

The current apartment complex has about 151 vehicles. The new development will have 816. This increase in traffic will greatly affect the congestion and safety on Via Dolce, Via Marina and Admiralty Way. The new traffic pattern for the Shores will force most of the 816 vehicles onto Via Dolce. There are a number of children in our complex and in the houses across the street, I fear for their safety. The number of accidents will surely increase as a direct result of the traffic.

Parking has always been a bit of a challenge on Via Dolce especially the weekend beach traffic. The compact only parking permit at The Shores will force all larger vehicles to park on Via Dolce. Parking will be at a premium. Our guests will suffer, the merchants on Washington Blvd. will suffer and we residents will suffer from the increased noise and pollution.

During last winter's rain, we watched a constant runoff down Dell Ave. and the Admiralty Loop (the extension of Panay Way). The drainage was barely adequate and some flooding did occur. A large increase the amount of pavement will tip the balance and significantly increase flooding.

The Shores has proposed buildings with a height of about 100 feet. That means that any residents above the second floor will be joining me for meals and be able to comment on my computer skills.

Development is inevitable. However, a compromise can be reached in which The Shores is downsized so it is not a detriment to my neighborhood while still providing a large profit for its investors.

Thank you for reading my letter,

Judith E. Schaper

Judith E. Schaper
3516 Via Dolce
Marina del Rey, CA 90292

RECEIVED
JAN 17 2006

John & Barbara Gaertner
3722 Via Dolce
Marina del Rey, Ca. 90292
Telephone 310-822-1284: Fax 310-574-6234

Mr Rick Kuo
Los Angeles County of Regional Planning
320 West Temple Street
Los Angeles, Ca. 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

We are the homeowners of 3722 Via Dolce, Marina del Rey, CA 90292 and long time residents of Marina del Rey.

We are writing to object to the planned "The Shores" Project. Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all of the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is much too high. It will adversely affect the air circulation, which is primarily in the east-west direction coming from the ocean or the shore. More importantly it will significantly reduce hours of the available sunlight on the eastside of our complex. These are significant averse impacts on the residents of our complex, especially on the east side.

We recommend that to alleviate these impacts the height of the Shores Project should not exceed 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit of the project to be right turn only on Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of on coming traffic. The additional traffic generated by The Shores Project will significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of the Shores Project (over two and one half times the current density) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated parking at the Shores Project or permit parking only on Via Dolce.

Thank you for your consideration of this matter.

Sincerely,

John & Barbara Gaertner

John and Barbara Gaertner

TO: RICK KUO
DEPT. OF REGIONAL PLANNING

FROM: LAWRENCE TENAN
BOARD MEMBER, MARINA ;PENINSULA NEIGHBORHOOD ASSOC.

DEAR MR. KUO,

IT HAS COME TO MY ATTENTION THAT ONE MORE MASSIVE PROJECT HAS BEEN AUTHORIZED TO ASSAULT THE SENSES OF ANY AND ALL PEOPLE WHO LIVE IN THE MARINA.

THE MARINA SHORES PROJECT SHOULD NOT BE ALLOWED TO CONTINUE IN ITS PRESENT FORM OF 100 FEET IN HEIGHT AND OVER 500 APARTMENTS. THE IMMEDIATE NEIGHBORHOOD CONSISTS OF APARTMENT COMPLEXES OF 2 AND 3 STORY BUILDINGS OF NOT MORE THAN 45 FEET IN HEIGHT, AND SEE NO REASON FOR ANY COMPLEX TO GO OVER 50 FEET TOTAL HEIGHT.

THE IMPACT ON THE QUALITY OF LIFE OF THE IMMEDIATE AREA WILL BE SIGNIFICANTLY DOWNGRADED, DUE TO BLOCKING THE SUN FROM THE EAST IN THE MORNING AND COMPLETELY IMPACTING THEIR VIEW IN THAT DIRECTION.

THE ADDITION OF SOME MANY MORE CARS TO THE IMMENSELY ALREADY OVERCROWDED AREA STREETS IS A FACTOR THAT I BEESEECH ANY REGIONAL PLANNER TO PLEASE CONSIDER IN OUR FAVOR.

THANK YOU IN ADVANCE FOR YOUR CONSIDERATION IN THIS MATTER,

SINCERELY,

LAWRENCE TENAN

Peggy Jo Tashima
3652 Via Dolce
Marina del Rey, CA 92092

January 10, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RECEIVED
JAN 2006

Re: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3652 Via Dolce, Marina del Rey, CA 90292

I am writing to object to the planned "The Shores Project" Project #R2005-00234-4(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. The other adjacent structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over garages.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce the hours of available direct sunlight on the east side of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These pose significant adverse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate such impacts is to limit the height of The Shores Project to a maximum of 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are located on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard which has already resulted in traffic accidents. Our recommendation to solve this problem is to either allow the traffic flow from The Shores Project to exit directly on to Via Marina with an allowable left turn or to reduce the number of units with the resultant reduction of traffic onto Via Dolce.

Many visitors to Del Rey Shores already park on Via Dolce because there are insufficient visitor parking spaces at that property. Some of the Del Rey Shores residents with more vehicles than parking spaces provided for them also park on Via Dolce. Since parking is limited on Via Dolce, this currently creates problems for those living on Via Dolce and their visitors who frequently must already locate parking several blocks distance. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would several aggravate this condition. Our proposed solution is to reduce the number of units and to insure a sufficient amount of designated visitors' parking at The Shores Project.

Thank you for your consideration of these issues.

Sincerely,

PJ Tashima

Peggy Jo Tashima

Fricano, Russell

From: Kuo, Rick
Sent: Wednesday, January 11, 2006 4:07 PM
To: eric sakowicz; ' (aaron@ag-landuse.com)'
Cc: Koutnik, Daryl; Fricano, Russell
Subject: FW: The Shores Project: 544 Apartments

Below are comments from Diane L. Becker.

Rick Kuo
Impact Analysis Section
Dept. of Regional Planning
213-974-6461

From: Betsy Held [mailto:bheld@nchc.com] **On Behalf Of** Diane L. Becker
Sent: Wednesday, January 11, 2006 10:42 AM
To: Kuo, Rick
Subject: The Shores Project: 544 Apartments

Dear Mr. Kuo:

I am a member of SDS Family LLC. SDS Family LLC owns the condominium located at 3706 Via Dolce, and I am writing this letter to express my strong opposition to the proposed new 544 unit apartment project called The Shores. I moved into Marina Strand Colonies II when it was first built and I am an original owner of the unit. While there are many areas of opposition, my primary concern is the height of the project and the number of units. My condominium is a rear unit and will be very adversely impacted by the proposed 544 unit apartment project. As you know, the marina area around Via Dolce is comprised of residential two-story apartment buildings and single-family residences, with the exception of only one high-rise structure (Kingswood), which is out of character. The almost three-fold increase in height of the proposed project will prevent light and breeze from reaching the east side of our complex where my condominium unit is located. Also, the almost three-fold occupancy increase will greatly increase noise levels and air pollution and traffic congestion.

The proposed occupancy increase is further damaging, given the current lack of parking on Via Dolce and the great increase in parking congestion that this project will cause, especially since the only available street parking is on Via Dolce, in front of our complex. Tenants from Del Rey Shores park on our street now, because SUVs and trucks do not fit into their parking spaces. The 544 unit apartment project is proposing to vary the parking requirement by pulling in compact spaces and I urge that the Planning Commission not allow The Shores to put in compact parking spaces to avoid real parking requirements because the type of people who live in the Marina do not drive compact cars. This is an SUV, large car area. There is no justification for granting a variance as to parking requirements.

Another concern is the significant increase in traffic on Via Dolce since the projected Via Marina garage access provides for right turn egress only. This will route all traffic onto Marquesas/Via Dolce for exit from the Marina area. Why would a parking engineer ever approve of this when the traffic pattern on Via Dolce is already so excessive during peak

periods?

The County Planning Department is hopefully going to protect the Via Dolce residents against intrusion on the interests enumerated above. I sincerely hope that you will reject this project. I can be reached at (805) 988-8307 to discuss this further.

Very truly yours,
Diane L. Becker, Member
SDS Family LLC

Diane L. Becker, Esq.
dbecker@nchc.com
Phone:(805) 988-8307/Fax: 805-988-7707

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JANET L. OSGOOD

3856 VIA DOLCE, MARINA DEL REY, CA 90292
(310) 242-5637 • FACSIMILE (310) 242-6137

January 11, 2006

VIA FAX 213-626-0434

Rick Kuo
County of Los Angeles Department of Regional Planning

RE: THE SHORES PROJECT #R2005-00234-(4)

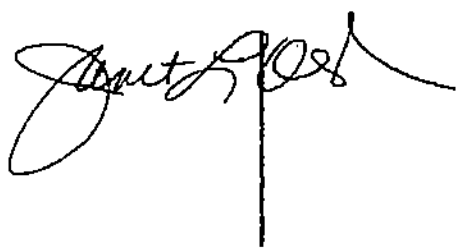
Dear Rick,

I live on Via Dolce behind the Del Ray Shores apartments. My unit is a back unit or on the east side. I am in shock. I just heard what the proposed new project will be. Those of us on the east side of our complex only get about 3 hrs of actual direct sunlight. With this new project being much taller and much closer to our complex, we will lose any sunlight or breeze we get now and any privacy we now have. The only way this can be rectified is to scale down the number of units and the height of the new complex to two to four stories including parking. Also, I understand that the new complex will be 60 feet father to the west than the existing complex. It seems that this will bring the new project about 15-20 feet from our complex, and being about 4 times taller than the existing buildings, we will be in a cave. I suggest that the new building start where the existing apartments are, leaving space for noise control and privacy. Our quality of life will definitely be affected.

There is no parking on Via Marina and with the increase in occupants almost tripled, we will lose the little parking we have on Via Dolce. As it is now, the occupants of Del Rey Shores park on Via Dolce and so do beach people. With this new proposed project, parking will be a major problem. Via Dolce is a slight curve. The traffic now is fast and dangerous. As it is now, when leaving our complex, you can't see what cars are coming on your left. With the increase in traffic from this new proposed project, this will unlikely cause more accidents.

Please take my concerns into consideration and pass them along to the proper people.

Regards,



Ronald H & Gwendolyn M Teruya
3566 Via Dolce
Marina del Rey Ca 90292-5030
(310) 574-1571
rteruya@hotmail.com

RECEIVED
JAN 10 2006

January 5, 2006

Mr. Rick Kuo
LA County Dept of Regional Planning
320 W Temple St Room 1348
Los Angeles Ca 90012

Re: The Shore Project #R2005-00234-(4)

Dear Mr. Kuo:

Out townhouse faces the proposed "Shores Project". We are very concerned about the height of the proposed project, lack of adequate parking and the fact the new apartments will be built closer to our house than the current complex.

A complex this high and close to us will completely block any sun or breeze. The current complex is two story and has parking patios that give an additional sixty feet of space between us and the living units. I don't look forward to the idea of a five story wall of people watching me if I want to go out onto my patio. This will, of course, greatly diminish the value of our home and quality of life.

The proposed complex is simply too big. It is not just going from 202 apartments to 544 apartments that concerns me. The rents on the new units will be much higher meaning that in addition to more units, there will be a higher occupancy per unit to pay the increased rents. Very limited street parking and a higher per unit occupancy rate results in no provision for guest parking because all of the allocated 1,114 parking spaces will be needed by the tenants.

I feel the proposed project should be limited to no more than three stories and that the living spaces should not be allowed to be closer to the neighbors than the current housing. Given the lack of street parking the developers should be required to provide adequate parking for guests.

LA County has already approved several large scale projects in our neighborhood. When completed, they will result in a large increase in population with no new county or retail services. How does this improve the quality of life for the residents of this community?

Very truly yours,

Gwendolyn Mason Teruya

HEALTHCARE RECRUITERS
INTERNATIONAL · LOS ANGELES

FACSIMILE TRANSMISSION

The contents of this transmission are confidential and intended solely for the use and purpose of the person(s) to whom this is addressed. Please see that it is delivered promptly to maintain strict confidentiality.

TO: Rick – Re: The Shore Project, Project #R2005-000234-(4)

FAX: 213-626-0434

FROM: Rita Montgomery, R.N.
Vice President Business Development

Please see that Rick for the above Shore Project receives this email.

Thanks,

Rita Montgomery
310-823-3872
3536 Via Dolce
Marina Del Rey, California 90292

Rita Montgomery, RN

NUMBER OF PAGES IN TRANSMISSION (INCLUDING COVER):

THE INFORMATION regarding these candidates is being provided at your request and with the express understanding that no warranties, expressed or implied, are made as to the accuracy, completeness, or reliability of the information, we strongly recommend that you personally verify the information provided prior to offering a position to a candidate. Your acceptance of our referral of a candidate supersedes any prior contact or knowledge of the candidate, and if a candidate referred to you is employed within one year of our referral by you or any parent or division o your company, or by any company which you introduce the candidate to, you will be responsible for full payment of the placement fee.

15300 Ventura Boulevard, Suite 207, Sherman Oaks, CA 91403
Phone: 818-981-9510 Fax: 818-981-9523
Email: rita.montgomery@hrnetwork.com

To: County of Los Angeles Dept. of Regional Planning
Re: The Shoe Project, Project #R2005-00234-(4)
Fax: 213-626-0434

From: Rita Montgomery
3536 Via Dolce
Marina Del Rey, California 90292
310-823-3872

Dear Rick:

I would like to add to my letter of concern that I faxed to you earlier in December of 2005. This letter was in reference to the proposed project designated above and would be to add to the already mentioned concerns of the previous letter which I will also enclose.

There are numerous reasons other then the ones mentioned earlier to you that I see this project as having a large negative impact on the community of Marine Del Rey.

Our community would not only suffer with this project from the aesthetic value mentioned previously and from the traffic and congestion to the area mentioned previously, but, the community cannot be adequately prepared for such a large building that would radically increase the number of people to the area. This area is not adequately staffed for a community this size to handle any police protection, fire protection, school for children etc. at the present time let alone an additional amount of people of this capacity to be added to the residences in the area.

Other concerns as well are very important such as sewage, drainage, pollution, flooding and these types of environmental hazards. There is a drainage problem already in the area of Via Dolce and there have been issues in the surrounding area as well. Vast increase in paved areas will create water run off problems and flooding. Again, with this rapid influx of numerous people, the environment most likely will suffer in the building of the project and will ultimately suffer with the additional residences that would come into the area after the building is completed.

This project to be built in such a radical increase in both size of the building and amount of people to occupy the area is a great imposition to the homeowners who currently live in the area. I would like consideration to be given to the above objections so that the quality of the Marine Del Rey does not decline in the future.

To: County of Los Angeles Dept. of Regional Planning
Re: The Shore Project, Project #R2005-00234-(4)
Fax: 213-626-0434

From: Rita Montgomery
3536 Via Dolce
Marina Del Rey, CA 90292
310-823-3872

Dear Rick:

Many of us in the Marina Del Rey area have a permanent residence that will be influenced by your proposed project being built and I for one am opposed to this project for numerous reasons:

1. The height for the building is way too high as compared to the surrounding height of the buildings already existing in the area. If this height were to be built, it would not only aesthetically be out of character, but, have numerous ramifications for the residences already in the area such as blocking of sun light, blocking of breeze to the area, and absolutely no view whatsoever where there is limited view already for the residences immediately nearby.

2. The proposed project perspectives have it being built considerably closer to the residences to the West than the current apartments already there. Again, this would have an aesthetic appearance that would not only look more congested but be more congested all the way around for a comfortable living situation. It would not at all enhance the area but be more of an obstacle and look as though it would be definitely out of place for the existing area.

3. The added number of units built in the proposed project will impact traffic flow in the area. This added traffic flow will already impact an area that has problems with this now. People have parking issues and traffic issues currently. The parking spaces for a high rise of this nature would not compensate for the number of added residences and this is already a problem with street parking being an issue in that it is limited already.

4. Excessive Noise with a large complex such as this project being built so close to the nearby neighbors in the area, is going to cause more problems then already for an area with residences close by now. If this project were to be built further back then this could allow for a buffer area of grass and trees placed along Dell Ave perhaps somewhat diminishing noise already existing now without a new complex.

5. This many new people in the area will also overtax the existing retail stores who

do not have the space to accommodate the existing customers at the present time and so with new added people in the area, there will be additional parking issues and long lines for the retail business.

The Shores Project has many of the above concerns and more to the local residences who have been in this area for years. I am totally convinced that the above listed issues will affect not only myself but the neighbors who I have spoken to as well and that the quality of life here in Marina Del Rey will be greatly compromised should The Shores Project go through as outlined. I am sure that if you really observed these concerns yourself you could see that they are not out of line and are very much issues to take under consideration to keep our community an aspiring one and one that remains prosperous. To build a project such as this as outlined, the quality and character of the area will go down and the land will lose not only its value but will lose its aesthetic quality that has been an attractive feature up to now for the area.

Robin Anderson
3772 Via Dolce
Marina del Rey, CA 90292
FAX: (310) 656-4946

Rick Kuo
Regional Planning Assistant
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

January 9, 2006

RE: Proposed Reconstruction of Del Rey Shores

Dear Mr. Kuo:

Thank you for taking the time to talk with me today regarding my concerns about the demolition and rebuilding of the Del Rey Shores apartment complex in Marina del Rey.

First, I am aghast at the number of mega-unit complexes that are going up all over my area, and the huge additional number that are in the planning stage.

Between the incredible number of dwellings bring erected all over Playa del Rey, the ones in Westchester, and now all of the ones in the Marina, one has to ask what you people could possibly be thinking. Where on earth are all the cars going to go? Is anyone taking the time to visit the area to see the impact that the present new construction has had on us already? A great number of the Playa Vista units aren't even occupied, and yet you can feel the drastic increase in traffic all over that area on Lincoln Boulevard, all day long. It is positively gridlocked now, and with all the big complexes going up around Lincoln Blvd., and around Redwood,

it's going to be impossible to use Lincoln Avenue at rush hour. And unfortunately, it's the only North/South street that motorists can use, (except the freeway) to go to the airport, and to travel from the west side back and forth to Manhattan Beach, Hermosa, etc.

When you add all of these other projects in the Marina, plus shopping malls, the traffic from Loyola, etc., forget about it. You won't be able to leave your house without a huge commute time. And on top of that, the Marina and Venice are big tourist areas particularly in the summer, so the congestion will be relentless. And yet you're allowing these HUGE units to go in all over the place.

The small arteries around the Marina, off Admiralty, are one and two-lane roads, so where are you going to put all the cars? And where will people park? As it is, you can't find a parking space on Washington Blvd. at night near the restaurants to save you. So where are the cars going to go when you keep allowing all of this expansion?

And where are all of the children that come from these homes going to go to school? Are they going to have to go in Venice? The Marina is totally "school-less." Have you thought about that? And how will the tiny fire department in our area handle all the emergencies, both fire and medical that this number of people will create?

Daniel Freeman has come close to closing over-and-over again. And the medical care offered there is considered less than wonderful. What are you going to do with the huge overflow of people that will flood our local emergency rooms?

How will the area accommodate all of the goods and services required by the projected increase in population you are creating?

What grocery stores, parks, mailboxes, schools, hospitals, roads, electrical resources, freeway entrances, etc., will they use? As it is, the power in the Marina goes out on a fairly regular basis.

I'm frightened that the entire Marina is built on land-fill. With all of this new digging, are you undermining the existing structures and potentially creating sink-hole issues?

Why are you doing this? If this was Brentwood, or Santa Monica, this whole idea would be knocked down by the citizens in minutes. Nobody wants all of this congestion and construction in their area. And what you guys are allowing to even the untrained eye is way over the top. When you see these huge buildings going up you immediately think, "where will all the people go?" The roads simply can't accommodate them.

I'm very upset that you're considering allowing the Del Rey Shores complex to be torn down and replaced by a much larger, taller complex that will come right up to the backs of our units at Marina Strand Colony II.

The amount of noise that a project like this will create in the building stage will be unbearable, and the duration of construction for such a large complex will probably be about two years.

The number of trucks and workmen creating noise and mess and traffic congestion will be staggering. I'm told that they will be bringing in 40,000 tons of dirt for the underground parking lot. Can you imagine the number of trucks we're talking about?

And you're talking about bringing in over 500 more people to live in the new units, than the number that currently reside there. There are no parking spaces on Via Dolce at night as it

stands. Where will these people park since you can't park on Via Marina?

And most frighteningly, since you can't turn left out of that complex onto Via Marina, all of the traffic from this new complex will be routed around Via Dolce so people can get to Washington Blvd. to leave the area.

There have been many accidents and near accidents on Via Dolce because the speed limit is 45MPH (which is outrageous in a residential area), and because there is a blind curve in front of our complex, so you can't see who is coming when you exit the driveways. With all of these extra cars, it's going to be even noisier in my bedroom and living room at night, and leaving via the driveway is going to be additionally risky, which is terribly unfair. At the very least, the City should change the way Via Marina traffic is set-up, and make it so the residents of Del Rey Shores can make a left out of the complex, and not be allowed to use Via Dolce as their racetrack. I've nearly been killed out there and people are always honking and slamming on their brakes, trying not to get hit. Something really needs to be done about it now, and with this project, it would be a disaster. Just thinking about it makes me want to move. The little tranquility I have is going to go right out the window.

My property values are definitely going to be negatively affected according to my realtor, and the joyful experience I have had living in the Marina is going to come to an end. I don't want to live in the middle of the New York City you people are allowing builders to create in the Marina. I understand that some building and growth in an area are healthy and necessary. But I have to question why you have allowed this to get so out of control in our lovely town. One

must assume that revenues to the county are involved at the expense of what is safe and good for a community.

With what we've learned from all of the recent natural disasters in the world, we should all be aware that overcrowding and a lack of available services is at the root of so many unnecessary deaths when the disaster hits. If God forbid, such a thing happened in Playa or the Marina or Westchester, where would the people go for help?

We're in a liquefaction zone, so if there's an earth quake, we're already predisposed for big problems. Why are you so nonchalantly adding to the potential chaos?

Enough is enough. Please reconsider your approval of all of this unnecessary construction, stop being so revenue-motivated, and think how the long-term consequences of these decisions are going to affect your citizenry.

Thank you.

Sincerely,

Robin Anderson

Robin Anderson
(310) 395-5062

Michael Rosenfeld
4707 Via Dolce
Marina del Rey, California 90292
Telephone: 310 301-9500; Fax: 310 301-9592

RECEIVED
JAN 4 2006

January 3, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3742 Via Dolce, Marina del Rey, CA 90292 and member of the Board of Directors of the Marina Strand Colony II Home Owners Association.

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant averse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for you consideration of this matter.

Sincerely,

Michael Rosenfeld

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

From: Larry Falkin
3696 Via Dolce
Marina Del Rey, CA 90292
310 612 3573

RE: The Shores Project, Project #R2005-00234-(4)

Dear Rick,

I am opposed to the proposed project being built as planned for the following reasons:

The proposed height of the building is grossly out of character with all the buildings surrounding it with only one exception. The existing buildings to the East are only 2 stories currently or are car ports with no construction above them. The buildings to the West are also 2 or 3 stories. The same applies to buildings to the South of the proposed project. With only one exception, all the buildings to the North of the project are also just 2 or 3 stories. Only one building to the North is about 200 ft. tall. I propose that the new project be no more than 5 stories tall including parking levels, with no added architectural elements, to be more in character with the buildings in the surrounding area.

The proposed project would be built considerably closer to the residences to the West than the current apartments. Currently just car ports are built along Dell with no construction above them. This allows light, sun and breezes into the units to the West. The plans for the new development call for the new buildings to be situated approximately 60 feet closer than the existing apartment buildings. The proposed new buildings will also be almost 4 times taller than the existing buildings currently on that site. This will effectively block out most of the light, sun and breezes from the buildings to the West. I suggest that the proposed buildings be set farther back from Dell Ave. and that the buildings themselves not be as tall as even the original 75 foot height proposed. The additional 25 feet of height requested should also not be allowed. It will just further exacerbate this problem.

The number of dwelling units in the proposed project will create a significant negative impact on traffic in the area. I estimate that at peak hours it will add close to 80 extra cars per hour to and from the building. A reduced number of units will reduce the number of cars added to the already congested traffic in the area. 300 to 350 dwelling units would be much better.

The number of parking spaces is not sufficient for the number of dwelling units. Each unit will be assigned 2 parking spaces which will leave no guest spaces at all. The is no street parking on Via Marina. I suggest a much more realistic number of parking spaces for this project. 2 ½ or 3 spaces for each proposed dwelling unit built would be a more realistic number. If the project were built smaller, this would help.

The proposed project is also asking for Excessive Signage. I am opposed to that for aesthetic and size reasons. None of the adjacent buildings have need for excessively large signs.

I am opposed to the additional Architectural Elements that will be added to hide mechanical equipment on the roof. These units should be enclosed within the building itself and not put on the roof. If the project were made smaller, the huge industrial type heating and air conditioning units would not be needed. Typical individual Forced Air Units could be in each unit if the project were reduced in size. Hot Water Boilers could also be placed in enclosed areas on the grounds of the property.

Excessive Noise from such a large complex with so many units being placed so close to the residences to the West will also be a problem. The existing apartments are placed 60 feet further away from where the apartments are located in the proposed project. I suggest that the new project be set back as far as the existing apartments and that a sound buffer area of grass and trees be placed along Dell Ave. This will require the project to be lower density to allow for this extra space.

Adding this many new people to the area will also overtax the existing retail stores in the neighborhood. There is very little new retail space added in the area and we are also losing a huge existing area of retail stores at Maxella and Lincoln streets. Many stores have been closed and are being redeveloped as condominiums. These condos will also add to this problem. I suggest that fewer units be added to the number of existing apartments in The Shores project to keep our retail stores from being overburdened. The parking lots at the stores will not have capacity for all of the extra cars and the lines at the stores will be excessively long. This area does not have space to add any more retail stores. The number of people added to the area needs to be closely monitored to make sure that existing residents and new residents have easy access to stores and services.

Please submit these concerns to the proper people so that the quality of life that we currently have in our neighborhood will not be so adversely effected. Right now I am typing this letter in my home, light and breeze coming through my open window, with only a tiny bit of noise coming from far away. I would like to keep this quality of life where I live. I am convinced that The Shores Project as submitted will take these things away from me.

Thank You

Larry Falkin

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

From: Robert / Kay Miller
3522 Via Dolce
Marina Del Rey, CA 90292
310 612 3573

RE: The Shores Project, Project #R2005-00234-(4)

Dear Rick,

I am opposed to the proposed project being built as planned for the following reasons:

The proposed height of the building is grossly out of character with all the buildings surrounding it with only one exception. The existing buildings to the East are only 2 stories currently or are car ports with no construction above them. The buildings to the West are also 2 or 3 stories. The same applies to buildings to the South of the proposed project. With only one exception, all the buildings to the North of the project are also just 2 or 3 stories. Only one building to the North is about 200 ft. tall. I propose that the new project be no more than 5 stories tall including parking levels, with no added architectural elements, to be more in character with the buildings in the surrounding area.

The proposed project would be built considerably closer to the residences to the West than the current apartments. Currently just car ports are built along Dell with no construction above them. This allows light, sun and breezes into the units to the West. The plans for the new development call for the new buildings to be situated approximately 60 feet closer than the existing apartment buildings. The proposed new buildings will also be almost 4 times taller than the existing buildings currently on that site. This will effectively block out most of the light, sun and breezes from the buildings to the West. I suggest that the proposed buildings be set farther back from Dell Ave. and that the buildings themselves not be as tall as even the original 75 foot height proposed. The additional 25 feet of height requested should also not be allowed. It will just further exacerbate this problem.

The number of dwelling units in the proposed project will create a significant negative impact on traffic in the area. I estimate that at peak hours it will add close to 80 extra cars per hour to and from the building. A reduced number of units will reduce the number of cars added to the already congested traffic in the area. 300 to 350 dwelling units would be much better.

The number of parking spaces is not sufficient for the number of dwelling units. Each unit will be assigned 2 parking spaces which will leave no guest spaces at all. The is no street parking on Via Marina. I suggest a much more realistic number of parking spaces for this project. 2 _ or 3 spaces for each proposed dwelling unit built would be a more realistic number. If the project were built smaller, this would help.
The proposed project is also asking for Excessive Signage. I am opposed to that for aesthetic and size reasons. None of the adjacent buildings have need for excessively large signs.

I am opposed to the additional Architectural Elements that will be added to hide mechanical equipment on the roof. These units should be enclosed within the building itself and not put on the roof. If the project were made smaller, the huge industrial type heating and air conditioning units would not be needed. Typical individual Forced Air Units could be in each unit if the project were reduced in size. Hot Water Boilers could also be placed in enclosed areas on the grounds of the property.

Excessive Noise from such a large complex with so many units being placed so close to the residences to the West will also be a problem. The existing apartments are placed 60 feet further away from where the apartments are located in the proposed project. I suggest that the new project be set back as far as the existing apartments and that a sound buffer area of grass and trees be placed along Dell Ave. This will require the project to be lower density to allow for this extra space.

Adding this many new people to the area will also overtax the existing retail stores in the neighborhood.

There is very little new retail space added in the area and we are also losing a huge existing area of retail stores at Maxella and Lincoln streets. Many stores have been closed and are being redeveloped as condominiums. These condos will also add to this problem. I suggest that fewer units be added to the number of existing apartments in The Shores project to keep our retail stores from being overburdened. The parking lots at the stores will not have capacity for all of the extra cars and the lines at the stores will be excessively long. This area does not have space to add any more retail stores. The number of people added to the area needs to be closely monitored to make sure that existing residents and new residents have easy access to stores and services.

Please submit these concerns to the proper people so that the quality of life that we currently have in our neighborhood will not be so adversely effected. Right now I am typing this letter in my home, light and breeze coming through my open window, with only a tiny bit of noise coming from far away. I would like to keep this quality of life where I live. I am convinced that The Shores Project as submitted will take these things away from me.

Thank You

Robert / Kay Miller

K Miller

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

From: Eugene and Barbara Haberman
3676 Via Dolce
Marina Del Rey, CA 90292
(310) 821-2787

RE: The Shores Project, Project #R2005-00234-(4)

Dear Rick,

I am a homeowner and member of the Board of Directors of the Marina Strand Colony II Home Owners Association.

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex is composed of townhouses two stories high over a garage. The proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the east side of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant averse impacts on the residents of our complex, especially on the east side. Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for you consideration of this matter.

Sincerely,
Barbara Haberman
Eugene Haberman

Barbara Haberman
Eugene Haberman

RECEIVED
DEC 29 2005

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

From: Michael F. Frank
3542 Via Dolce
Marina Del Rey, CA 90292
310 578-7556

RE: The Shores Project, Project #R2005-00234-(4)

Dear Rick,

I am opposed to the proposed project being built as planned for the following reasons:

The environmental impact will be severe. For example, traffic, discussed in more detail later, will increase in the area and parking will be even more of a problem than it is currently. There are currently too many people living in the area. This will permit larger families to move into the units adding to the current population without additional space being allocated as the buildings are simply moving upwards.

The proposed height of the building is grossly out of character with all the buildings surrounding it with only one exception. The existing buildings to the East are only 2 stories currently or are car ports with no construction above them. The buildings to the West are also 2 or 3 stories. The same applies to buildings to the South of the proposed project. With only one exception, all the buildings to the North of the project are also just 2 or 3 stories. Only one building to the North is about 200 ft. tall. I propose that the new project be no more than 5 stories tall including parking levels, with no added architectural elements, to be more in character with the buildings in the surrounding area.

The proposed project would be built considerably closer to the residences to the West than the current apartments. Currently just car ports are built along Dell with no construction above them. This allows light, sun and breezes into the units to the West. The plans for the new development call for the new buildings to be situated approximately 60 feet closer than the existing apartment buildings. The proposed new buildings will also be almost 4 times taller than the existing buildings currently on that site. This will effectively block out most of the light, sun and breezes from the buildings to the West. I suggest that the proposed buildings be set farther back from Dell Ave. and that the buildings themselves not be as tall as even the original 75 foot height proposed. The additional 25 feet of height requested should also not be allowed. It will just further exacerbate this problem.

The number of dwelling units in the proposed project will create a significant negative impact on traffic in the area. I estimate that at peak hours it will add close to 80 extra cars per hour to and from the building. A reduced number of units will reduce the number of cars added to the already congested traffic in the area. 300 to 350 dwelling units would be much better.

The number of parking spaces is not sufficient for the number of dwelling units. Each unit will be assigned 2 parking spaces which will leave no guest spaces at all. The is no street parking on Via Marina. I suggest a much more realistic number of parking spaces for this project. 2 ½ or 3 spaces for each proposed dwelling unit built would be a more realistic number. If the project were built smaller, this would help.
The proposed project is also asking for Excessive Signage. I am opposed to that for aesthetic and size reasons. None of the adjacent buildings have need for excessively large signs.

I am opposed to the additional Architectural Elements that will be added to hide mechanical equipment on the roof. These units should be enclosed within the building itself and not put on the roof. If the project were made smaller, the huge industrial type heating and air conditioning units would not be needed. Typical individual Forced Air Units could be in each unit if the project were reduced in size. Hot Water Boilers could also be placed in enclosed areas on the grounds of the property.

Excessive Noise from such a large complex with so many units being placed so close to the residences to the West will also be a problem. The existing apartments are placed 60 feet further away from where the apartments are located in the proposed project. I suggest that the new project be set back as far as the existing apartments and that a sound buffer area of grass and trees be placed along Dell Ave. This will require the project to be lower density to allow for this extra space.

Adding this many new people to the area will also overtax the existing retail stores in the neighborhood. There is very little new retail space added in the area and we are also losing a huge existing area of retail stores at Maxella and Lincoln streets. Many stores have been closed and are being redeveloped as condominiums. These condos will also add to this problem. I suggest that fewer units be added to the number of existing apartments in The Shores project to keep our retail stores from being overburdened. The parking lots at the stores will not have capacity for all of the extra cars and the lines at the stores will be excessively long. This area does not have space to add any more retail stores. The number of people added to the area needs to be closely monitored to make sure that existing residents and new residents have easy access to stores and services.

I am on the board of the Marina Strand Colony II complex directly to the west of the proposed project. I have reviewed Larry Falkin's concerns and correspondence and have incorporated a great deal of his language. Please submit these concerns to the proper people so that the quality of life that we currently have in our neighborhood will not be so adversely effected.. I would like to keep this quality of life where I live. I am convinced that The Shores Project as submitted will take these things away from me.

Thank You

Michael F. Frank

WIND STUDY

DEL REY SHORES APARTMENTS

MARINA DEL REY, CALIFORNIA

Project Number: 05-1234A

Date: March 30, 2005

Submitted by: Rowan Williams Davies & Irwin Inc.

Project Engineer - Hanqing Wu, Ph.D., P.Eng.

Project Manager - Dan Bacon

Project Director - Bill Waechter, CET, Associate

Submitted to: Del Rey Shores Apartments

Armbruster & Goldsmith LLP

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U.S. Contacts:
RWDI LLC
- California (909) 793-7080

1. INTRODUCTION

Rowan Williams Davies & Irwin Inc. (RWDI) was requested by Del Rey Shores Apartments and Armbruster & Goldsmith LLP to undertake a detailed wind study on the proposed Del Rey Shores Apartments in Marina del Rey, California. The study addressed the wind study requirements of the Los Angeles County Zoning Code, including an assessment of the effects of the proposed development on wind patterns within the marina, loss of surface winds used by sailboats and birds, and general air circulation.

2. TEST METHODOLOGY

Wind tunnel tests were conducted on a scale model of a section of Marina del Rey to determine the impact on the wind conditions resulting from the proposed Del Rey Shores Apartments. This report provides a summary of the results of these wind tunnel tests.

A 1:500 scale model of the study area and the proposed developments were assembled as shown in Figures 1a, 1b and 1c. Tests were conducted to simulate and measure wind conditions for the following three building configurations:

A. Existing - Existing surroundings and existing buildings on the development site circa 1998;

B. Proposed - Existing surroundings with the proposed Del Rey Shores Apartments; and

C. Future - Expected future developments in the area with the proposed Del Rey Shores Apartments.

The results presented in this report pertain to the model of the proposed Del Rey Shores Apartments constructed using the architectural design drawings received by RWDI on December 22, 2004, site photos on March 4, 2005, and other in-house information, such as city maps and aerial photos.

The wind tunnel model was instrumented with a total of 44 wind sensors on Basins B, C and D. It was tested in RWDI's boundary layer wind tunnel for the predominant wind directions, which are the west, west-southwest, southwest and east. The sensors were developed by RWDI for use on scale models and are capable of measuring both changes in wind speed and wind direction.

The wind tunnel results for all predominant wind directions in the Los Angeles area have been examined in detail and are presented in this report. The west, west-southwest, southwest and east wind directions together account for winds that occur a majority of the time, as shown in Figure 2. The wind roses in Figure 2 show the percentage of the time that wind blows from each of 16 directions during spring, summer, fall and winter for the hours of 7:00 am through 9:00 pm, when most sailing would occur. All of the tests were conducted for the above four wind directions.

Information on the changes in wind speed and direction recorded at each sensor location can be obtained from Figures 3 through 6 for the four wind directions tested. Each figure presents local wind data at each location for one of the four approaching wind directions that were tested. The length of the arrows is proportional to the speed of the wind at each location. In each figure there are three colour coded arrows at each sensor location: black to indicate the local wind direction for existing site conditions, red for the proposed Del Rey Shores Apartments and green for future developments with Del Rey Shores Apartments present.

The wind analysis considered if the proposed development would result in changes to the local wind direction or mean speed between adjacent sensors that are greater than the difference presently experienced between any two adjacent sensors. Until criteria are established by the County of Los Angeles, this is the best method of assessing the impact of the proposed developments on the sailing conditions in the marina.

3. EFFECTS ON SAILING CONDITIONS

For the four wind directions tested (Figures 3 through 6), the red arrows (proposed conditions) are aligned closely with the black arrows (existing conditions) and have a similar length at a great majority of measurement locations on Basins B, C and D. Therefore, the wind direction and speed are not affected by the addition of the proposed Del Rey Shores Apartments. The green arrows (future conditions) were found to be different from those for the existing and proposed conditions in both wind speed and direction, especially in Basin C, indicating potential wind impacts of the future developments. However, the changed wind directions between adjacent sensors were generally comparable.

When the black arrows (existing conditions) and the red arrows (proposed conditions) were compared in Figures 3 through 6, they were virtually identical for all 44 test locations and for all four wind directions. This is due to (1) the proposed development is not immediately adjacent to the basins; and (2) the massing of the proposed development is similar to that of the low existing buildings on the development site. Small variations were observed in localized areas, for instance, at Locations 7, 8 and 9 for the west and west-southwest wind directions (Figures 3 and 4, respectively) and at Locations 25 through 35 for the southwest wind direction (Figure 5). It is assumed that these localized, minor changes in wind speed and/or direction will not be an issue.

Variations in wind speed and direction were observed when the expected future developments were in place, as indicated by green arrows in Figures 3 through 6. These variations were more evident in areas close to the future developments, for instance, at Locations 1, 2, 8 and 9 for the west wind direction (Figure 3), at Locations 1 and 7 through 10 and 12 for the west-southwest wind direction (Figure 4), at Locations 7 through 12 for the southwest wind direction (Figure 5), and, to a lesser extent, at Locations 1 and 7 for the east wind direction (Figure 6).

4. LOSS OF SURFACE WINDS USED BY BIRDS

In order to assess the effects on birds of changes in the surface winds a report was prepared by an expert in the aerodynamics, kinematics and behavior of birds. This report has been attached as Appendix A. The author of the report considered the following issues:

- the types of birds likely to inhabit Marina del Rey
- the ability of birds to take off and land,
- soaring conditions upwind and downwind of the proposed building,
- effects on local thermal soaring conditions, and
- changes to flight efficiency due to turbulence.

From our test results, the minimal change on existing wind fields due to the proposed development will not result in changes to the birds' use of the area.

5. GENERAL AIR CIRCULATION PATTERNS

Small changes in wind speed and direction were recorded only in localized areas in the vicinity of the proposed development. Due to the localized nature of these changes and the low height of the proposed development, there will be no effect on the general air circulation patterns within Marina del Rey.

6. CONCLUSIONS

From the results of this wind study, it has been concluded that the proposed Del Rey Shores Apartments will not affect the existing wind conditions in Marina del Rey. Some variations in wind speed and direction were observed when the expected future developments were in place.

The overall wind conditions predicted with the proposed development in place are similar to those presently experienced in and around the marina and therefore the general air circulation patterns and the use of surface winds by birds will not be affected.

MDR REDEVELOPMENT GRANTED SINCE LCP CERTIFICATION (2/8/96) PER DZ

DZ #	DZ Name	Case #	Parcel #	Applicant	Redevelopment Granted	Trips Generated	Approval Date
1	Bora Bora	00-39	112	Epstein	120 D.U.'s Net Decrease of 271 Slips Demolish 4 KSF Office	-4	10/18/2000
2	Tahiti	00-39	111	Epstein	Remodel Existing Apartments (No Increase in D.U.'s)	0	10/18/2000
3	Marquesas	98-134	12	Ring	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips	50	12/6/2000
4	Panay	91-329	18	Goldrich & Kest	68 D.U.'s 60 Congregate Care Units	32	6/13/1996
		98-134	15	Ring	Net Increase of 250 D.U.'s, 47 Senior Apartments Net Decrease of 41 Slips Demolish 4.4 KSF Restaurant 8 KSF Retail	85	12/6/2000
		98-172	20	Goldrich & Kest	99 D.U.'s, Net Increase of 6.94 KSF Retail Transfer of 97 D.U.'s from DZ1 to DZ4	63	10/2/2000
5	Palawan/Beach	02-277	97	Pashaie	450 s.f. net retail increase	2	6/25/2003
		03-029	140	Pashaie	Net Increase of 115 D.U.'s	37	12/10/2003
6	Oxford						
7	Admiralty	96-169	40	DPL	Library Expansion - 2,454 S.F.	0	3/5/1997
8	Bali						
9	Mindanao						
10	Fisherman's Village						
11	Harbor Gateway						
12	Via Marina	03-030	95,LLS	Pashaie	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office	0	6/16/2004
13	North Shore						
14	Fiji Way						
					Total Trips:	266	

KSF = 1,000 Square Feet
D.U. = Dwelling Unit
Trip Rate for Senior Apartments is 0.10 ppmpht (ITE)

1/19/2006

PUBLIC RESOURCES CODE SECTION 30220-30224

30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

30222.5. Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

PUBLIC RESOURCES CODE SECTION 30210-30214

30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212. (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of

public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl AICP
Director of Planning

June 1, 2006

TO: Pat Modugno, Chairman
Leslie G. Bellamy, Commissioner
Esther Valadez, Commissioner
Wayne Rew, Commissioner
Harold Helsley, Commissioner

FROM: Russell J. Fricano, Ph.D., AICP
Zoning Permits II

SUBJECT: PROJECT NO. R23005-00234
COASTAL DEVELOPMENT PERMIT NO. 200500002-(4)
PARKING PERMIT NO. 200500004-(4)
VARIANCE NO. 200500004-(4)
Del Rey Shores
Agenda Item No. 6; June 7, 2006 Continued Hearing Date

The above-referenced case is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey. This Regional Planning Commission initially heard this case on January 25, 2006. Subsequent hearings were held on March 1, 2006 and April 19, 2006. At the April 19 hearing the Regional Planning Commission continued the hearing to June 7, 2006 to provide staff with additional time to address issues raised at the hearing. This report summarizes testimony at the April 19 hearing and provides the status of the applicant's affordable housing proposal.

SUMMARY OF TESTIMONY: April 19, 2006 PUBLIC HEARING

A duly noticed public hearing was held on April 19, 2006. The public hearing opened with a presentation by staff.

Proponent Testimony

A representative of the applicant noted the project would provide 10 exterior parking spaces. Regarding the Mello Act compliance the applicant has withdrawn the in-lieu fee request; the representative also noted that the while the county is revising the policy, the Board of Supervisors passed a motion allowing the project to proceed. Anticipating the direction of the proposed policy, the applicant has

withdrawn the in-lieu fee request and will provide affordable housing and replacement units. He further noted that following the previous hearing he had researched the issue of Mello Act compliance and found that many jurisdictions don't have Mello Act compliance programs. The applicant had also gathered information on the existing tenants in the building and considered the economic impacts of providing affordable housing. The representative also noted that based upon meeting with county staff and housing advocates, the applicant will re-survey all 265 existing tenants to accurately calculate the housing replacement obligation under the Mello Act. A final draft survey was proposed. To allow sufficient time to complete the survey and respond to issues a continuance to May 17 was requested.

Another testifier represented a lessee in the vicinity of the site (Espirit project). The testifier acknowledged that the applicant had provided a Fire Safety Plan and had revised the project description regarding grading. The testifier noted a 50% increase in grading and increase the volume of grading exported. The testifier requested a grading plan. An analysis of trunk line sewers was also requested. The testifier also requested conditions regarding the applicant's participation in the Coastal Improvement fund and also restricted hours for pile driving.

Opposition Testimony

Affordable Housing

The Legal Aid Foundation representing the Western Center on Law and Poverty (WCLP) and People Organized for West Side Renewal (POWER) expressed concerns with the current survey. According to the testifier, the applicant failed to provide a copy of the tenant survey. The applicant has not examined the incomes of tenants who were relocated. The testifier also wanted to ensure that updated data was used in the survey. The testifier also objected to replacement of the low and moderate income units with moderate income replacement units, which she contended was unlawful under the Mello Act. The applicant should also look at tenant income and not monthly housing costs; consider units occupied by management employees; 14 vacant units should be included in the new survey and students occupying units should also be considered. The testifier also requested more information regarding the criteria the applicant used to define household or family.

A representative of the WCLP questioned the applicant's interpretation of county density bonus provisions in determining the provision of affordable housing. and feasibility; according to the testifier, the applicant has not provided sufficient information to justify why 5% of very low units were provided rather than 10%. The testifier requested that the applicant's current proposal should be denied.

A financial consultant representing POWER noted that the applicant's approach was simplistic, over-conservative, did not consider the time value of money and disregarded capitalization of the project. Using methodology used by the applicant, the testifier found that the provision of 10% very low income inclusionary units and 30 moderate income replacement units are feasible. The testifier also questioned the developer's threshold of return on cost of 8% versus 7% which the testifier believed was the correct measure. The testifier claimed the developer's approach would lead to a loss in full lease rate of 10.5 % of the land and a loss in 22 very low income inclusionary units.

A local resident and member of POWER testified and asked for more sufficient estimates from the applicant. The testifier also objected to the developer's contention that in lieu fee money would provide funding to public health instead of providing affordable housing.

Another testifier noted that persons had been previously displaced without replacement housing. This was the first time replacement housing was considered in the Marina. If the applicant determined that it is infeasible to construct affordable housing, the project should not be constructed at all.

Environmental Issues

Another testifier questioned the adequacy of the EIR. According to the testifier development permitted in the Via Marina Development Zone was miscalculated. the testifier questioned the decrease in units. The testifier also noted that the EIR manipulated data in favor of an alternative that provided no affordable housing. This analysis also included trip generation and air quality.

A resident of a neighborhood in the vicinity of the project (Oxford Triangle) requested notification of neighborhood councils of development proposals. The testifier also expressed concerns about a sewer problem, particularly storm water runoff in the area.

Another testifier expressed opposition due to displacement of residents from redevelopment activity and traffic on Lincoln Boulevard.

An attorney representing a development within the vicinity of the site requested delay of the decision until responses to the Marina LCP review were released. He also proposed that a form by used to track all development The testifier also noted a discrepancy between unit counts and traffic projections conducted by Crain and Associates (used in the Draft Environmental Impact Report) versus those used by the Los Angeles Department of Transportation.

Proponent Rebuttal

A representative of the applicant asserted that the replacement of housing units in kind was not consistent with settlement agreement with the city of Los Angeles. The testifier further disagreed with the concept that affordable housing be provided "to the greatest extent feasible" was not consistent with the Mello Act which uses "where feasible". Considering project finance issues, this threshold is practical.

Letters submitted responded to comments regarding sewer and water capacity; The Department of Public Works has given the applicant a Will Serve letter. The force main is in the process of being upgraded. The applicant will submit a grading plan to confirm the amount of the grading. The representative also noted that the Final EIR will address impacts of the export of dirt from the site.

Following rebuttal testimony, the Commission requested that the Department of Pubic Works provide a timeline and capacity on force main responding to concerns expressed in testimony. The Regional Planning Commission continued the Public Hearing to June 7, 2006, to respond to some of the issues expressed in testimony and allow further testimony on affordable housing and other matters.

RESPONSE TO TESTIMONY ISSUES

Following the April 19, 2006 public hearing, County staff, along with the applicant, responded to additional issues raised in testimony. Issue covered include, the applicant survey of tenant income, calculation of replacement units proposed by the applicant, Los Angeles County CDC evaluation of the applicant's methodology and further response to Environmental Issues.

Del Rey Shores Tenant Survey Guidelines

The determination of replacement housing units is based upon a tenant survey conducted by the applicant. The Mello Act compliance Task Force provided the applicant with guidelines for the analyzing survey information. In a letter dated May 11, 2006, the Chief Administrative Office listed criteria for determining replacement housing units (see attached). In summary, replacement unit guidelines include:

Any vacant unit as of May 1, 2006 deemed as a market unit.

Tenants evicted from May 1, 2005 to the present must have been evicted for cause, otherwise the unit is deemed an affordable unit subject to replacement.

Resident management employees are not considered tenants for the purpose of Mello Act compliance with a limit of one management unit per 75 residential units.

Students that are claimed as a dependent on their parent's federal income tax form are required to report their parent's income to determine affordable housing eligibility.

For tenants that return a survey but fail to state financial information the applicant can use tenant income information on file that is not older than two years. In the absence of this information the applicant may use the previous year's rent compared to affordable rental rates of the same year.

Criteria for unmarried and unrelated occupants who wish to be treated as separate individuals persons

If a person is determined to be of very low, low or moderate income while the remaining household occupants are above moderate income, the replacement obligation is limited to one bedroom.

The May 11, 2006 letter also provided guidelines for survey documentation:

- Names and addresses of most recent tenants
- Total number of existing units
- Tenant family size in each unit
- Square footage and number of bedrooms per unit.
- Identification of vacant units and how long such units have been vacant
- Information or any evictions within the last year
- Rental prices as of May 1, 2006

Applicant Report

On May 22, 2006, the applicant submitted a letter summarizing the process for determining affordable replacement units. The applicant prepared a Coastal Housing Tenant Questionnaire and Tenant Financial Information Form following guidelines prescribed by the Affordable Housing Task Force for Marina del Rey.

The survey was sent via certified mail to Del Rey Shore tenants on or about May 1, 2006. As less than 50 residents returned the survey, the applicant provided follow through and called the remaining tenants. Details regarding how the replacement units were calculated are summarized in the attached letter and in the subsequent section, "Summary of Tenant Survey".

Summary of Tenant Survey

Tenant Survey information and a supporting letter submitted by the applicant have been attached to this report. In summary:

The applicant noted that there were 13 vacant units as of May 1, 2006, and they were deemed market rate units.

There have been two tenants evicted since May 1, 2005, both for nonpayment of rent. Copies of the court judgments in both cases have been provided to the Community Development Commission.

Three units at Del Rey Shores are occupied by resident management employees and are not considered by the County to be tenants for purposes of Mello Act compliance.

Four units occupied by students did not qualify as "replacement units," due to an analysis of parental income provided.

Several tenants returned surveys on which they indicated that their household income was less than "moderate income," but declined to complete the Financial Information Form. Following the criteria specified in the previous section, the applicant then reviewed tenant income information no more than two years old contained in management's files, and, if no such information was available, the applicant reviewed the current rent paid by the occupants.

In order to determine whether the rental levels were below moderate income level thresholds, the applicant used the 2006 threshold rents provided by the County of Los Angeles Community Development Commission. The moderate income rent levels are $1,299 per month for a one-bedroom unit and $1,456 per month for a two-bedroom unit. If the current rent of a unit is below the 2006 threshold rents, that unit is counted as a "replacement unit." There are eight cases in which the current rents are above the 2006 threshold rents, and, therefore, these units do not qualify as "replacement units."

There were seven units in which all unmarried and unrelated occupants reside who wished to be treated as separate individuals which qualified as "replacement units."

There are two cases in which one person was determined to be of low or moderate income, while the remaining occupant(s) are above moderate income; the replacement obligation for these two persons has been determined to be two one-bedroom "replacement units."

Following County Criteria, the applicant determined that a total of 38 moderate income replacement units would be constructed. The Los Angeles County

Community Development Commission subsequently determined that 37 units would be required (see following section, "Los Angeles County Community Development Commission Survey Audit").

Los Angeles County Community Development Commission Survey Audit

In a letter dated May 30, 2006 to the Regional Planning Commission, the Los Angeles County Community Development Commission (CDC) confirmed that it had conducted an audit of the tenant survey information submitted by Del Rey Shores. The CDC hired an independent consulting firm DRA, Incorporated, to review all files with CDC staff. While the audit determined that the replacement unit estimate was correct, there was further discussion regarding the counting of tenants covered by a rental agreement. It was subsequently determined that if only those tenants covered by a rental agreement are included, this would result in 37 replacement units; 37 moderate income replacement units were recommended. These include 27 one-bedroom and 10 two-bedroom units (See attached letter).

Applicant Correspondence: April 30, 2005

In a letter sent by facsimile on April 30, 2006, the applicant summarized his position on the provision of replacement and inclusionary affordable units. In this letter, the applicant further noted that inclusionary units should be based upon the net increase in number of units attributable to redevelopment (342 units). The applicant finds it feasible to set aside 17 units or 5% of the 342 units for very low income. According to the applicant, the 58 replacement units he is proposing plus the 17 inclusionary units constitutes 10% of the total number of units the proposed project. (See attached Letter under "Additional Applicant Correspondence"). The CDC also provided some general comments on this dated May 31, 2006, attached to this report.

Sewer Line Capacity

In correspondence dated May 30, 2006, the Department of Public Works reported resolution of sewer line capacity issues. The Department of Public Works Public Works had completed a comprehensive sewer area study that included the cumulative impacts of all known current and planned development in the Marina. The study identified approximately 1.25 miles of sewer pipe upgrades, Public Works estimated cost for the upgrades at $2.5 million. The upgrades will be phased in over a four-year period beginning in Fiscal Year 2007-08. Funding will come from the Marina Replacement ACO Fund. The study has shown that the section of sewer pipe traversing the Del Rey Shores property is adequate to accommodate the known current and planned redevelopment in the Marina. A copy of this correspondence is attached.

Grading

The applicant has provided an updated grading plan to the Department of Public works for review. The Department will provide an updated analysis of the plan in the Final Environmental Impact Report.

Additional Conditions

In response to comments at the April 19 public hearing, and to ensure consistency with comparable projects in Marina del Rey, staff recommends that the following conditions be added

Coastal Improvement Fund

The permittee shall, to the satisfaction of the Director of Planning, participate in, and contribute to his fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

Construction Pile Driving

Pile driving shall be restricted to the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday. No pile driving activity shall be conducted on Saturdays or Sundays.

Fire Safety

The permittee shall prepare a Fire Safety Plan in accordance with Section 22.46.1180 (15) of the zoning code and obtain approval of the Fire Department prior to issuance of any building permits.

Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect property the property from fire hazard. The permittee shall provide fire flow, hydrants, gated access width, emergency access, and any other facilities as may be required by said Department.

The applicant shall provide fire sprinklers in all structures in accordance with Los Angeles County Building Code, Chapter 38, Sections 3802(b) 5 and 3802 (h) to the satisfaction of the Fire Department.

A copy of the original draft conditions are attached, revised to reflect the applicant's withdrawal of the in-lieu fee request. Based upon the Commission's decision, staff notes that additional conditions will be required to specify affordable housing related covenants.

EVALUATION

The proposed project is consistent with policies of the Marina del Rey Land Use Plan and provisions of the Marina del Rev Local Implementation Program. In the course of the public hearing process, the applicant has responded to Commission and public comment and has revised the proposal to the extent of withdrawing the in-lieu fee request and providing both replacement units and inclusionary affordable housing.

Following the April 29, 2006 public hearing, the applicant has conducted the tenant survey following guidelines prescribed by the county and the review received an independent audit. The applicant is proposing 38 replacement units and to set aside 5% or 17 very-low affordable inclusionary units. Staff also notes that the revised policy for Affordable Housing in Marina del Rey and Task Force meetings are still pending at this time.

Finally, staff acknowledges the applicant's responses to environmental issues raised in testimony and public comment; further responses are appropriate for the Final EIR.

RECOMMENDATION

Staff recommends that the Commission:

- Hear further testimony related to affordable housing and other issues;
- Consider whether materials and responses provided by the applicant sufficiently address affordable housing requirements, potential environmental impacts and community concerns.
- If the Commission finds that the applicant has satisfactorily addressed affordable housing and environmental issues, staff recommends approval.

SUGGESTED MOTION

I MOVE THAT THE REGIONAL COMMISSION CLOSE THE PUBLIC HEARING AND EXPRESS ITS INTENT TO APPROVE PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 AND FOR STAFF TO PREPARE FINDINGS AND CONDITIONS AND THE FINAL ENVIRONMENTAL DOCUMENT.

If you have any further questions, feel free to contact me at (213) 974-6435.or by e-mail at rfricano@planning.co.la.ca.us. Department office hours are Monday

through Thursday, from 7:00 a.m. to 6:00 p.m. The Department is closed on Friday.

RJF

6-1-06

Attachments:

Original Conditions of Approval (Revised)
Public Agency Correspondence
Del Rey Shores Tenant Income Survey
Additional Applicant Correspondence

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements~~, and the payment of a fee in lieu of allocating 10% of the dwelling units to affordable housing,~~ subject to all of the following conditions of approval.

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 10, 12, and 23.

4. To the extent permitted by law, the permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

   a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

   b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing with the applicable fee six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

9. **This grant will terminate _____, 2026.**

   Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the Permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for a continuance of the use permitted under this grant, whether including or not including modification to the use at that time.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **$3,000.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **twenty (20) annual inspections.** Inspections shall be unannounced.

11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts reasonably necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the site plan on file. The amount charged for additional inspections shall be $150.00 per inspection, or the current recovery cost, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to permittee, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.

13. The permittee shall remit processing fees payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination in compliance with Section 21152 of the Public Resources Code.

14. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

15. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.

16. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.

17. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not provide pertinent information about said premises.

18. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as

closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations. Inspections shall be made as provided in Condition No. 10 to ensure compliance with this condition, including any additional inspections as may be necessary to ensure such compliance.

19. Within sixty (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of revised plans, similar to Exhibit "A" as presented at the public hearing that clearly depicts all required project changes. The property shall be developed and maintained in substantial conformance with the approved revised Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner.

20. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of a landscape plan, which may be incorporated into the Revised Exhibit "A" described in Condition No. 19. The landscape plan shall show the size, type, and location of all plants, trees, and watering facilities. The permittee shall maintain all landscaping in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary for the life of this grant.

21 The following conditions shall apply to project construction activities:

a. Construction activity shall be restricted between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. to 5:00 p.m. on Saturday. No construction shall occur on Sundays and legal holidays.

b. All material graded shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;

c. All fixed and mobile construction equipment shall be in proper operating condition and be fitted with standard silencing devices; engineering noise controls shall be implemented on fixed equipment to minimize adverse effect on nearby properties. Generators and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent properties. All construction equipment, fixed or mobile, that is utilized on the site for more than two working

days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state, and local standards, the permittee shall maintain an equipment log. Said log shall document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling device. Said log shall be submitted to the Director and the Department of Public Works for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100-feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses;

d. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the owner of said adjacent property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking;

e. The permittee shall provide adjacent property owners with a pile driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and the County Department of Public Works prior to the initiation of construction activities. In addition, the permittee shall conspicuously post a construction schedule along portions of the property fronting Via Marina, Marquesas Way, Dell Avenue and Via Dulce10 days in advance of any construction activities. The schedule shall also include information where individuals may register questions, concerns or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems;

f. All project-related truck hauling shall be restricted to a route approved by the Director of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep

record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services;

g. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:

   i. Configure construction parking to minimize traffic interference;

   ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person);

   iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works;

   iv. Consolidate truck deliveries when possible;

   v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site;

   vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD for daily forecasts;

   vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director;

   viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices; and

   ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.

h. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works and the LEA, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:

i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more);

ii. Replace ground cover in disturbed areas as quickly as possible;

iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications;

iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded;

v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available);

vi. Install wheel washers where vehicles enter and exit unpaved areas onto paved roads, or wash off trucks and any equipment leaving the site each trip; and

vii. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.

i All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles; and

j. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.

22. This grant shall not be effective until the permittee submits a plan for parking management and on-site circulation to the satisfaction of the Director on Planning and Public Works.

~~23. This grant shall not be effective until the permittee pays an in-lieu fee of $7.11 per net rentable square-foot of development for each unit, payable to the County of Los Angeles for the provision of affordable housing in the Unincorporated Los Angeles County.~~

24. The permittee shall provide a minimum of 1,114 parking spaces consisting of 925 standard and 189 compact spaces. The use of said parking spaces for storage is expressly prohibited.

25. The project shall be in compliance with the Mitigation Monitoring program.

26. The use of the subject property shall be further subject to all of the following restrictions:

    a. The permittee shall maintain a management staff to reside on-site and be available to respond to any issues seven (7) days per week, 24 hours per day;

    b. The permittee shall post signage on the subject property providing a telephone number for the reporting of any problems associated with said apartment;

    c. Outdoor storage and the repair of automobiles shall be prohibited;

    d. The permittee shall monitor landscaping on a monthly basis and replace vegetation as needed.

RJF 6-1-06

Public Agency Comments

Community Development Commission

May 31, 2006

TO: File

FROM: Blair Babcock, Assistant to Director
Housing Development and Preservation Division

SUBJECT: DEL REY SHORES INCOME SURVEY AND AFFORDABLE HOUSING PROPOSAL

The following are comments on the recently received proposal from the Developer of Del Rey Shores, Jerry B. Epstein

Replacement Units Analysis

The Developer has included the originally proposed number of 38 replacement units for moderate-income tenants, comprised of 28 1-bedroom units and 10 2-bedroom units. Following discussions with the Developer, the Commission recommended that the number of replacement units be reduced by one 1-bedroom unit.

Inclusionary Affordable Unit Analysis

One of the Commission's primary goals is promote the production of affordable housing, and the Developer's proposal to include units for very low-income tenants corresponds with the Commission's goal and will help to address the severe shortage of affordable housing in the County.

However, it is understood that consideration must be given to what effect the provision of the mandated replacement units and additional units for low-income tenants will have on the overall economic viability of the proposed development.

CBB:ms

COMMUNITY DEVELOPMENT COMMISSION
of the County of Los Angeles
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Gloria Molina
Yvonne Brathwaite Burke
Zev Yaroslavsky
Don Knabe
Michael D. Antonovich
Commissioners

Carlos Jackson
Executive Director

May 30, 2006

Los Angeles County
Regional Planning Commission
170 Hall of Records
320 West Temple Street
Los Angeles, CA 90012

Dear Commissioners:

DEL REY SHORES – OCCUPANCY AND INCOME SURVEY

This letter is forwarded to confirm that the Community Development Commission (Commission) has completed an audit of the tenant records submitted by the Developer of Del Rey Shores. The audit was completed in accordance with requirements stipulated in a letter dated May 11, 2006, from the County of Los Angeles Chief Administrative Office (CAO) to the Developer's representative (a copy is attached for your reference). All documentation required by the letter was submitted to the Commission and conformed to the requirements set forth in the CAO's letter.

The Commission employed a consulting firm, DRA Incorporated, to review all files in concert with Commission staff. Following this review, those files indicating that a replacement unit may be required were further reviewed by DRA. It should be noted that DRA or Commission staff did not contact the tenants.

The Developer's summary indicates that if the vacant units are counted as stipulated and all occupants of each unit are included, a total of thirty-eight (38) moderate-income replacement units are required (The rent rolls accompanying the summary should not become a part of the public record). However, following discussions with the Developer's representative David Levine, it was concluded that if only those tenants covered by a rental agreement are included; the number of replacement units would be reduced by one. This would result in thirty-seven (37) moderate-income replacement units. The Commission agrees with this conclusion and recommends that thirty-seven (37) moderate-income replacement units be required. Twenty-seven (27) units are to be one bedroom and ten (10) are to be 2 bedroom.

A Copy of the Developer's determination of the number of moderate-income replacement units required is attached.

As of this date the Developer has not submitted a proposal for inclusionary (low and/or very-low income) units.

If you have questions or concerns, you may contact Blair Babcock of my staff, at 323-890-7263 or Gregg Kawczynski at 323-890-7269.

Sincerely

Bobbette A. Glover

for CARLOS JACKSON, Executive Director

CJ:CBB

Attachs. (2)

Del Rey Shores Replacement Unit Determination Report
May 22, 2006
Submitted to the Community Development Commission

AFFORDABLE REPLACEMENT UNIT DETERMINATION PROCESS

The Mello Act prohibits the demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income" (Government Code 65590(b)). In order to determine the number of those dwelling units which qualify as replacement units among the 202-unit apartment complex known as Del Rey Shores, the applicant has undertaken a detailed study of the replacement unit determination process utilized in jurisdictions throughout the state, and carried out a thorough Income Survey of its existing residents under guidelines promulgated by the County of Los Angeles.

First, it should be noted that the County's existing Affordable Housing Policy does not address the Mello Act's replacement unit determination requirement, and therefore does not provide any guidelines for implementation of this provision of the Act. Moreover, the replacement unit provision of the Mello Act has not been applied to previously-approved residential projects in Marina del Rey.

Following the public hearing on January 25, 2006, after consideration of the written and oral testimony provided by the Legal Aid Foundation of Los Angeles, its client People Organized for Westside Renewal, and the Western Center on Law and Poverty, and the question-and-answer discussion with the members of the Regional Planning Commission on this issue, the applicant consulted with housing officials in several municipal jurisdictions in the coastal zone throughout California (including the cities of Los Angeles and San Diego), and found that no two jurisdictions implement the Mello Act in the same manner. In particular, the procedures for the determination of replacement units differ from jurisdiction to jurisdiction.

As part of this research, the applicant reviewed the "Interim Administrative Procedures for Complying with the Mello Act," adopted in May 2000 by the City of Los Angeles as part of the settlement agreement entered into between the City and the Legal Aid Foundation and the Western Center on Law and Poverty, and discussed the procedures at length with the City of Los Angeles Housing Department staff. (It should be noted that the City of Los Angeles has yet to adopt permanent procedures for developer compliance with the Mello Act). City Housing Staff observed that few, if any, proposals for the demolition and subsequent redevelopment of existing residential projects have been approved, or even applied for, in the coastal zone portion of the City of Los Angeles since the adoption of these Interim Administrative Procedures.

At the April 19, 2006, (third) public hearing on this project before the County of Los Angeles Regional Planning Commission, the applicant agreed to carry out a more detailed study of the residents of Del Rey Shores and Del Rey Shores North in order to

address County and public concerns about the accuracy of the "replacement unit" count proffered by the developer after a telephone survey of approximately one-half of the current residents undertaken in March 2006.

The applicant prepared a Coastal Housing Program Tenant Questionnaire and Tenant Financial Information Form, in a manner patterned after the City of Los Angeles' Interim Administrative Procedures and the Mello Act procedures adopted by the City of San Diego. This form was subsequently revised and then approved by the County of Los Angeles' Affordable Housing Task Force for Marina del Rey ("Task Force"), which is comprised of staff from County Departments of Beaches and Harbors and Regional Planning, the County Community Development Commission, County Counsel, and the Chief Administrative Office of the County of Los Angeles. The County-approved Income Survey and Financial Information Form, which is the basis of the tenant income survey conducted by the applicant, is attached as Appendix A.

The Income Survey and Financial Information Form was sent via certified mail to Del Rey Shores residents on or about May 1, 2006, and the return date specified on the form was May 8, 2006. Fewer than 50 residents returned the survey before May 12, 2006. Del Rey Shores staff called the remainder of the residents between May 12 and 15, 2006, and used the following script, which had been submitted by the applicant and revised and approved by Task Force representatives:

> Last week you received a Coastal Housing Program Tenant Questionnaire to be used by the County of Los Angeles to determine the number of affordable housing units to be constructed as part of the upcoming Del Rey Shores redevelopment project. To date we have not received your completed survey. In order to provide the County of Los Angeles with the necessary documentation, we strongly encourage you to fill out ands return the survey. If you have any questions, please call David Levine at the Del Rey Shores Management Office at 310-823-5384. Thank you for your cooperation.

A log of all telephone contact between management and residents was kept and presented to the Community Development Commission. Additional surveys were received through Friday, May 19.

AFFORDABLE REPLACEMENT UNIT ANALYSIS

The May 11, 2006, letter from the County of Los Angeles Chief Administrative Office, attached to this report as Appendix B, sets forth the County's criteria for determining whether a unit in the Del Rey Shores project constitutes a replacement housing unit under the Mello Act. The applicant has scrupulously followed both the spirit and the letter of the County directions as to both process and analysis of the Income Survey results.

All occupants were asked to fill out the Income Survey and, should their income be reported to be less than moderate income, the Financial Information Form. Income levels and family size criteria were provided by the Community Development Commission of the County of Los Angeles ("CDC") as determined by the California Department of Housing and Community Development, pursuant to Health and Safety Code Section 50093, which is itself referenced in the Mello Act. If the individual occupant and/or household income level was below the moderate income criteria, and the accompanying financial information was complete, then the occupant's unit was deemed eligible for "replacement unit" status without any consideration for the current rent. If the occupant did not provide any financial information, and no recent financial information was available in the applicant's files, then the occupant's apartment was designated for "replacement unit" status if the current rent was below the 2006 threshold rents for moderate-income housing provided by the County Community Development Commission of $1,299 for a one-bedroom apartment and $1,456 for a two-bedroom apartment. This chart shows the number of units determined to be eligible as "replacement units," based upon the results of the Income Survey of the occupants:

Unit Type	Low Income	Moderate Income	Total
1 Bedroom	14	14	28
2 Bedroom	2	8	10
Total	16	22	38

These 38 "replacement units" constitute over 18 percent of the 202 units at the existing project.

In its May 11, 2006, letter, the County established criteria for the consideration of specific categories of occupants for determination of "replacement unit" status. The Survey results showed the following:

- There were 13 vacant units as of May 1, 2006, and they were deemed market rate units.

- There have been two tenants evicted since May 1, 2005, both for nonpayment of rent. Copies of the court judgments in both cases have been provided to the Community Development Commission.

- Three units at Del Rey Shores are occupied by resident management employees and are not considered by the County to be tenants for purposes of Mello Act compliance.

- Students who are claimed as dependents on a parent's federal income tax return or whose parents are guarantors on the rental/lease agreement were required to submit parental household income information to determine

eligibility for replacement unit status. There are four units occupied by students which do not qualify as "replacement units."

- Several tenants returned surveys on which they indicated that their household income was less than "moderate income," but declined to complete the Financial Information Form. Per County criteria, the applicant then reviewed tenant income information no more than two years old contained in management's files, and, if no such information was available, then looked to the current rent paid by the occupants. In order to determine whether the rental levels were below moderate income level thresholds, the applicant used the 2006 threshold rents provided by the County of Los Angeles Community Development Commission. The moderate income rent levels are $1,299 per month for a one-bedroom unit and $1,456 per month for a two-bedroom unit. (Both rent thresholds are net of the County of Los Angeles Housing Authority's utility allowance.) If the current rent of a unit is below the 2006 threshold rents, that unit is counted as a "replacement unit." There are eight cases in which the current rents are above the 2006 threshold rents, and therefore these units do not qualify as "replacement units."

- There were seven units in which all unmarried and unrelated occupants reside who wished to be treated as separate individuals which qualified as "replacement units."

- There are two cases in which one person was determined to be of low or moderate income, while the remaining occupant(s) are above moderate income, so the replacement obligation for these two persons has been determined to be two one-bedroom "replacement units."

As shown in the table above, the number of "replacement units" was further refined to reflect the size of the unit in which the current qualified occupant resides.

There is ample precedent, including in the Interim Administrative Procedures adopted by the City of Los Angeles, for the on-site provision of affordable replacement units at any level of affordability. **Therefore, the applicant proposes that the 28 one-bedroom and 10 two-bedroom replacement units be set aside for persons or families of moderate income.**

The applicant will provide both the replacement units and the inclusionary units on-site within three years of the commencement of demolition of the current Del Rey Shores apartment complex, as called for in the Mello Act.

The affordable replacement units and inclusionary affordable residential units will not be segregated from market-rate units, but shall be reasonably dispersed throughout the project's 12 buildings.

Per the County's May 11, 2006, letter, the applicant will record a covenant with the Los Angeles County recorder which guarantees that the applicable affordability criteria for both replacement and inclusionary units shall be observed for a period of 30 years from the issuance of the Certificate of Occupancy. This 30-year period is consistent with the policies in many jurisdictions, including with the City of Los Angeles Interim Mello Act Administrative Procedures.

The applicant looks forward to the inclusion of this unprecedented commitment of affordable housing into the Findings and Conditions of the Coastal Development Permit for this project.

Respectfully submitted,

David O. Levine
Chief of Staff to Jerry B. Epstein
May 22, 2006

Fricano, Russell

From: Pachano, Fabrizio [FPACHANO@ladpw.org]
Sent: Tuesday, May 30, 2006 4:40 PM
To: Fricano, Russell
Subject: FW: Del Rey Shores Project - Marina del Rey

-----Original Message----
From: Efstathiou, Dean
Sent: Tuesday, May 30, 2006 8:55 AM
To: Lehto, Keith
Subject: FW: Del Rey Shores Project - Marina del Rey

fyi

----Original Message-----
From: Efstathiou, Dean
Sent: Tuesday, May 23, 2006 8:40 AM
To: Steve Napolitano
Cc: Curt Pedersen; Kerry Silverstrom; Wolfe, Don
Subject: Del Rey Shores Project - Marina del Rey

Steve;
Thank you for sending the May 1, 2006, letter from VAN WERT, INC., regarding the Del Rey Shores Project in Marina del Rey. We have reviewed the sewer line capacity issue cited in their letter and are happy to report that this issue has been resolved. This Department recently completed a comprehensive sewer area study that included the cumulative impacts of all known current and planned development in the Marina. The study identified approximately 1.25 miles of sewer pipe upgrades, mostly in the Fisherman's Village area. The estimated cost for the upgrades is $2.5 million. The upgrades will be phased in over a 4-year period beginning in Fiscal Year 2007-08. Funding will come from the Marina Replacement ACO Fund. The study has shown that the section of sewer pipe traversing the Del Rey Shores property is adequate to accommodate the known current and planned redevelopment in the Marina. Please let me know if you have any additional questions.

Del Rey Shores

Additional Applicant Correspondence

[Received May 30, 2006]

Del Rey Shores Income Survey & Affordable Housing Proposal

May 2006

The applicant wishes to withdraw its application for payment of an in lieu fee, made pursuant to the County of Los Angeles' Affordable Housing Policy for County-owned Marina del Rey (the "Policy"), and proposes to provide **38 moderate-income affordable "replacement units" and 17 very low-income inclusionary affordable units on-site, in compliance with California Government Code Section 65590 et seq. (the "Mello Act").**

This proposal represents a slight modification to the applicant's original proposal. The applicant increased the number of replacement units from 30 to 38 based on information obtained from the detailed Tenant Income Survey reviewed and approved by the County. As a result, the applicant decreased the number of inclusionary units from 26 to 17 because the financial burden of providing additional replacement units made it infeasible for the applicant to provide the original number of proposed inclusionary units. As set forth below, the applicant's revised affordable housing proposal maintains compliance with the letter and spirit of the Mello Act.

REPLACEMENT UNITS ANALYSIS

The applicant submitted a "Replacement Unit Determination Report" on May 22, 2006, to the Community Development Commission of the County of Los Angeles ("CDC"). This report provides a detailed account of the replacement unit determination process and results. For the purposes of this report, the applicant stresses that it followed the guidelines and instructions promulgated by a County of Los Angeles Task Force on Affordable Housing in Marina del Rey. All current occupants of Del Rey Shores were asked to fill out the Income Survey and, should their income be reported to be less than moderate income, the Financial Information Form. Income levels and family size criteria were provided by the CDC as determined by the California Department of Housing and Community Development, pursuant to Health and Safety Code Section 50093, which is itself referenced in the Mello Act.

This chart shows the number of units determined to be eligible as replacement units, based upon the results of the Income Survey of the occupants:

Unit Type	*Low Income*	*Moderate Income*	*Total*
1 Bedroom	14	14	28
2 Bedroom	2	8	10
Total	16	22	38

These 38 replacement units constitute over 18 percent of the 202 units at the existing project. As shown in the table above, the number of replacement units was further refined to reflect the size of the unit in which the current qualified occupant resides.

There is ample precedent, including in the Interim Administrative Procedures adopted by the City of Los Angeles, for the on-site provision of affordable replacement units at any level of affordability. **Therefore, the applicant proposes that the 28 one-bedroom and 10 two-bedroom replacement units be set aside for persons or families of moderate income.**

INCLUSIONARY AFFORDABLE UNIT ANALYSIS

The Mello Act also states that "new housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code." The Mello Act defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors." No specific percentage or type of affordable unit is cited in the Mello Act.

The 2002 County Affordable Housing Policy for Marina del Rey ("Policy") established the goal that 10% of newly constructed units in Marina del Rey be set aside for low-income persons and households. This Policy did not, however, take into account the Mello Act's replacement housing obligations. The Mello Act clearly requires housing developments to provide on-site inclusionary units only "where feasible." The County's inclusionary policy should take into account a project's replacement housing obligation because, as a practical matter, the primary obligation to provide the required number of replacement units will have a direct bearing on the feasibility of providing inclusionary units.

Moreover, there is precedent under state law, recently codified through the state legislature's passage of SB 1818 (Hollingsworth), to treat a smaller percentage of "very low-income" units as equivalent to a larger percentage of low-income units. For example, new housing projects which make on-site provision of either five percent of the number of market-rate units for persons or families with very low-incomes, or ten percent for persons or families with low-incomes, qualify for a density bonus.

The proposed project calls for the demolition of 202 existing units and redevelopment of 544 units on the same site, an incremental increase of 342 units. Throughout the environmental review process, the impact of the proposed project is consistently defined by an evaluation of the incremental (or "net") increase between the existing project and the proposed project attributable to redevelopment. Furthermore, as described above, the 202 existing units are subject to the replacement unit requirements of the Mello Act, which assure that the project will include that same number of affordable housing units as currently exist at Del Rey Shores. Therefore, the determination of the appropriate number of inclusionary units, "where feasible," should be based solely upon the net increase in the number of units attributable to redevelopment, or, in this case, 342 units.

The applicant believes that it is feasible and consistent with the Mello Act to set aside 17 units (or 5% of the incremental increase of 342 units) for very low-income residents or families as inclusionary affordable residential units in the proposed project. Nine (9) of these very low income units will be one-bedroom units and eight (8) will be two-bedroom units.

The 38 moderate affordable replacement units and 17 inclusionary very low income affordable units, or a total of 55 affordable units, constitute 10% of the total number of 544 units in the proposed project. 37 of these affordable units will be one-bedroom apartments and 18 affordable units will be two-bedroom units.

The applicant is cognizant that, in its April 2006 proposal submitted to the Regional Planning Commission, it proposed the set-aside of 30 moderate replacement units and 26 very low-income inclusionary units, or a total of 56 units. The applicant has modified its earlier proposal because the more detailed Tenant Income Survey has revealed that substantially more of the project's existing units qualify for replacement under the Mello Act—i.e., 38 units vs. the 30 units previously reported. Given that these 38 units constitute over 18 percent of the existing Del Rey Shores, it is consistent with the Mello Act to treat replacement units as the appropriate means to fulfill the applicant's obligation to provide affordable housing for the existing project, and to treat the net increase in the number of apartments in the proposed project as the basis for the applicant's responsibility to provide inclusionary units, "where feasible," in the proposed project.

While the current proposal of 55 total affordable housing units (38 moderate replacement units and 17 very low-income inclusionary units) is one less unit than the April proposal, this proposal requires similar economic concessions from the applicant and the County.

It is infeasible for the project to provide any more affordable housing than proposed herein. **Indeed, the set-aside of the 55 replacement and inclusionary affordable units can only be achieved with significant economic concessions from the County of Los Angeles.** The applicant must achieve a minimum level of projected net revenues before debt service in order to be able to obtain construction financing. The applicant projects the loss in present value to the County and the applicant from providing the 55 affordable units to be over $14 Million. County economic concessions—significant and unprecedented—are required to offset the added financial burden of the affordable units and allow the applicant to meet the minimum debt service requirements and proceed with the project. The structure of these economic concessions is under negotiation between the applicant and the County's lease negotiation team. Even with financial concessions, however, the benefits of redevelopment of Parcels 100 and 101 to the County are clear and compelling.

The applicant will provide both the replacement units and the very low-income inclusionary units on-site within three years of the commencement of demolition of the current Del Rey Shores apartment complex, as called for in the Mello Act.

The affordable replacement units and inclusionary affordable residential units will not be segregated from market-rate units, but shall be reasonably dispersed throughout the project's 12 buildings.

Per the County's May 11, 2006, letter (attached for your reference), the applicant will record a covenant with the Los Angeles County recorder which guarantees that the applicable affordability criteria for both replacement and inclusionary units shall be observed for a period of 30 years from the issuance of the Certificate of Occupancy. This 30-year period is consistent with the policies in many jurisdictions, including with the City of Los Angeles Interim Mello Act Administrative Procedures.

Neither the applicant nor the County of Los Angeles propose that the proposed project enjoy the benefit of a density bonus, as would be permitted, indeed encouraged, by applicable state law and County codes. As noted in prior testimony, the applicant proposes the construction of 544 units for many reasons, including: 1) 544 is the maximum number of units which can be built in this type of construction on this site; a larger project would require a different and significantly more expensive type of construction which would adversely impact feasibility; 2) 544 units is well within the parameters for density and height as called for in the certified Local Coastal Program; and, 3) unlike the proposed 544-unit project, the construction of a project with more than 544 units would have the potential to impact the character of Marina del Rey and result in significant environmental impacts, including traffic and other infrastructure impacts.

This proposal is consistent with the Mello Act in that it also balances the public policy goal of the provision of affordable housing with other environmental, social, and other technical factors which would be compromised significantly if the project were to be redesigned to increase the number of units and the building heights.

The applicant looks forward to the inclusion of this unprecedented commitment of affordable housing into the Findings and Conditions of the Coastal Development Permit for this project.

Respectfully submitted,

Jerry B. Epstein
Managing Partner, Del Rey Shores

David O. Levine

David O. Levine
Chief of Staff to Mr. Epstein

Attachment

County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://cao.co.la.ca.us

DAVID E. JANSSEN
Chief Administrative Officer

RECEIVED
MAY 15 2006

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

May 11, 2006

Mr. David O. Levine
Del Rey Shores
4201 Via Marina
Marina del Rey, CA 90292

Dear Mr. Levine:

DEL REY SHORES INCOME SURVEY GUIDELINES

This letter is to provide you with guidance on analyzing information to be obtained as part of the tenant income survey presently underway to determine the number of affordable housing units to be constructed as part of the Del Rey Shores Project pursuant to the Mello Act.

Determination of Replacement Housing Units

The number of replacement housing units will be determined, in part, by the results of the tenant income survey presently being administered by your office, and by owner furnished information for all vacant units that are not part of the survey. The affordable housing units will be replaced on a one-for-one basis (per number of bedrooms), consisting of a mix of unit types identified in the tenant income survey. Any identified replacement units will be available for a term of 30 years pursuant to an affordable housing covenant to be executed prior to the issuance of any building permits.

The following reflects the manner in which replacement housing units will be determined based on vacancies, evictions, and income survey results:

1. Any vacant unit as of May 1, 2006 is deemed to be a market rate unit.

2. Tenants evicted as of May 1, 2005 to the present must have been evicted for cause, otherwise the unit is deemed to be an affordable housing unit subject to replacement.

3. Resident management employees are not considered tenants for the purposes of Mello Act compliance (with a limit of one management unit per seventy-five residential units).

4. Students that are claimed as a dependent on a parent's federal income tax return or whose parents are guarantors on the rental/lease agreement must submit parental household income information to determine affordable housing eligibility for the purposes of Mello Act compliance.

5. Affordable housing eligibility for units with tenants that return an income survey but decline to state any financial information, and for tenants that do not respond to the income survey will be determined using tenant income information no more than two years old contained in the lessee's files, or in the absence of such income information, using the previous years rent compared to affordable rental rates of the same year.

6. Unmarried and unrelated occupants who wish to be treated as separate individuals rather than a household must declare under penalty of perjury the following: 1) they are not registered domestic partners; 2) they do not receive employment benefits (i.e. health insurance, etc.) from the other party; 3) they do not share a bank account; or 4) they do not own any property together.

7. If a person is determined to be of very low, low or moderate income, while the remaining household occupants are above moderate income, the replacement obligation is limited to one bedroom.

Documentation Required for Community Development Commission (CDC) Audit

As you are aware, the CDC is required to perform a thorough audit of the vacant units and income survey findings. Accordingly, any questions regarding the audit should be directed to Ms. Jewel Warren-Reed, Community Development Commission, 2 Coral Circle, Monterey Park, CA 91755, or she can be reached at (323) 838-7718. Please note that any costs incurred by CDC in overseeing the consultant firm's audit of the above and any related consultant costs are to be fully reimbursed by the developer.

In order to expedite the audit process, the CDC is requesting the following information regarding vacant units be transmitted to its offices as soon as possible:

- Names and addresses of the most recent tenants;
- Total number of existing units;
- Tenant family size in each unit;
- Square footage and number of bedrooms per unit;
- Identification of all vacant units and how long such units have been vacant;
- Information on any evictions within the last year (court judgments, three day notice to pay rent or quit, etc.); and,
- Rental prices as of May 1, 2006.

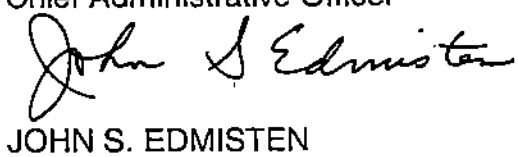
With respect to the income survey, the following primary "original" source documentation must be transmitted to CDC staff for audit purposes no later than Monday, May 22, 2006, at 10:00 am. This will provide sufficient time to meet your June 7, 2006 Regional Planning Hearing date:

- Original certified mail receipts;
- Original income survey questionnaire and financial information forms with date/time stamp;
- Certified summary chart showing date/time surveys were mailed and received;
- Certified tenant telephone/direct personal contact log; and,
- Final report describing methodology used to administer the survey and results (number of replacement units required) pursuant to the established guidelines listed above.

Should you have any questions or require further clarification regarding the replacement housing guidelines delineated in this letter, please contact Santos Kreimann of my staff at (213) 974-1127.

Sincerely,

DAVID E. JANSSEN
Chief Administrative Officer



JOHN S. EDMISTEN
Assistant Administrative Officer
Financial and Asset Management Branch

DEJ:JSE
SHK:zu

c: Beaches and Harbors
Community Development Commission
County Counsel
Regional Planning ✓

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl AICP
Director of Planning

December 7, 2006

TO: Pat Modugno, Chair
Esther Valadez, Commissioner
Wayne Rew, Commissioner
Harold Helsley, Commissioner
Leslie G. Bellamy, Commissioner

FROM: Russell J. Fricano, Ph.D., AICP RJF
Zoning Permits II

SUBJECT: COASTAL DEVELOPMENT PERMIT NO. 200500002-(4)
PARKING PERMIT NO. 200500004
VARIANCE NO. 200500004
Del Rey Shores
Agenda Item No. 9: December 13, 2006 Hearing Date

The above-referenced project is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment complex in the Residential V category of the Marina del Rey Specific Plan. The proposal consists of complex consisting of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A total of 1,088 parking spaces will be provided within parking structures on-site. A Variance has been requested for signage in excess of County code requirements. A Parking Permit has been requested to provide a greater proportion of compact parking. The project is located at 4201 Via Marina (Parcels 100 and 101) in the Playa del Rey Zoned District.

The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment; the applicant withdrew the in-lieu fee request and is proposing 17 very low-income inclusionary units and 37 moderate income replacement units.

The Regional Planning Commission held four public hearings on this matter on January 25, March 1, April 19, and June 7 of this year. At the June 7, 2006 public hearing the Regional Planning Commission closed the public hearing, expressed its intent to approve the project and instructed staff to prepare findings and conditions in approval and the final environmental document.

This report provides a summary of the attached materials, changes to project conditions, environmental mitigation and further response to public comment.

Findings

According to the Commission's request findings in approval of the project were prepared. The draft findings provide an overview of public hearing testimony, the proposed project and requested entitlements, compliance with the Marina del Rey LCP and the provision of affordable housing in compliance with the Mello Act.

Conditions

Based upon testimony, information and deliberation at the public hearings, a number of additions and changes were incorporated into the draft conditions. For this reason, two drafts of conditions have been provided: the first which shows additions and some further changes; the second, a draft free from editorial mark-up. Changes, as indicated on the marked-up copy, are summarized in the table below:

Table 1. Summary of Condition Changes

Condition No.	Description
1 (a)	Joint covenant-agreement to provide the 54 affordable units.
1 (b)	Affordable units specified and depicted on an exhibit.
1(c)	Enforcement of covenant provisions.
1(d)	Affirmative marketing program to attract prospective tenants.
1(e)	Maintenance of records and other reporting requirements.
1(f) – (g)	Anti-discrimination provisions.
1(h)	Recordation of covenant.
9	Termination date of grant deleted, consistent with treatment of comparable apartment projects.
13	Notice of Determination fee.
14	Deposit for review of monitoring reports and verification of compliance.
15	Submittal of Mitigation Monitoring Reports.

Table 1. Summary of Condition Changes (Continued)

Condition No.	Description
23	Submittal of signage plan.
24	Participation in Coastal Improvement Fund
25	Fire Safety Plan
27	Installation of sprinklers.
28 (b)	Pile-driving schedule
31	Revision of parking to reflect updated project description.
34	Scope of conditions.

Environmental Documentation and Mitigation Monitoring Program

The applicant has submitted the Final EIR (FEIR), Findings of Fact and Statement of Overriding Considerations and a Mitigation Monitoring Plan. The FEIR provided a response to every environmental issue raised at the public hearings. A brief summary of the environmental mitigation is provided in Table 2 below.

Table 2. Summary: Environmental Mitigation Monitoring Plan

Potential Impact	Mitigation
Geotechnical and Soil Resources	Controls for erosion and drainage. Also presented were conformance with building codes, a pile foundation system and testing for expansive soils and (if needed) methane gas protection systems.
Noise	Scheduling and restriction of hours of construction related activities, noticing and the use of or maintenance practices that reduce potential noise.
Air Quality	Construction management plan, plans for dust and emission abatement, and methods that re-reroute or reduce construction-related trips.
Traffic/Access	Payment of the traffic mitigation fee pursuant to the Marina del Rey TIP for local and regional improvements; widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao. The applicant would also be required to pay traffic mitigation fees that address regional traffic issues.
Solid Waste	A recycling and reuse plan for construction waste and a solid waste management and transport plan.

Table 2. Summary: Environmental Mitigation Monitoring Plan (Continued)

Potential Impact	Mitigation
Water Service	The improvement in water lines in Marquesas Way and Dell Avenue, provision of a water efficient landscaping plan and water conservation measures.
Sewer Service	Provision of a "will serve" letter and payment of a one-time sewer facilities charge to the City of Los Angeles

Responses to all environmental related comments were provided in the FEIR. The MMP and Findings of Fact and Statement of Overriding Considerations have been attached to this package. .

Development Monitoring: Marina del Rey Projects

Regarding a public comment by Richard Fine suggesting that staff use a form to monitor development proposals in Marina del Rey, Staff would like the Commission to know that two such forms are already currently used by county staff to monitor development as follows.

Marina del Rey Redevelopment Granted since the Certified LCP: This form considers, on the basis of each Development Zone, the number of units, changes in square feet of retail space, office and public facilities and other forms of non-residential development and the number of boat slips (see attached).

Marina del Rey Traffic Mitigation Fee: Approved Projects: The second form covers traffic mitigation fees of approved projects, the scope of the projects, number of peak trips, costs and associated improvements (see attached).

Staff notes that both of these tables serve as important tools in monitoring development projects as each subsequent proposal is reviewed for consistency with LCP requirements.

Mr. Fine suggested that proposed projects in the lease agreement stage should be given equal consideration with projects that are approved at the hearing stage. Staff does not believe that this is appropriate, as projects that are under consideration for lease agreements, early in the process, may change in scale and intensity prior to the submittal of an application to the Regional Planning Department. Consistency with Marina del Rey development capacity, traffic mitigation measures and fees are given full consideration during planning and environmental review prior to public hearing.

If you have any further questions, feel free to contact me at (213) 974-6435.or by e-mail at rfricano@planning.co.la.ca.us. Department office hours are Monday through Thursday, from 7:00 a.m. to 6:00 p.m. The Department is closed on Friday.

RJF

Attachments

MDR REDEVELOPMENT GRANTED SINCE LCP CERTIFICATION (2/8/96) PER DZ

DZ #	DZ Name	Case #	Parcel #	Applicant	Redevelopment Granted	Trips Generated	Approval Date
1	Bora Bora	00-39	112	Epstein	120 D.U.'s Net Decrease of 271 Slips Demolish 4 KSF Office	-4	10/18/2000
2	Tahiti	00-39	111	Epstein	Remodel Existing Apartments (No Increase in D.U.'s)	0	10/18/2000
3	Marquesas	98-134	12	Ring	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips	50	12/6/2000
4	Panay	91-329	18	Goldrich & Kest	68 D.U.'s 60 Congregate Care Units	32	6/13/1996
		98-134	15	Ring	Net Increase of 250 D.U.'s, 47 Senior Apartments Net Decrease of 41 Slips Demolish 4.4 KSF Restaurant 8 KSF Retail	85	12/6/2000
		98-172	20	Goldrich & Kest	99 D.U.'s, Net Increase of 6.94 KSF Retail Transfer of 97 D.U.'s from DZ1 to DZ4	63	10/2/2000
5	Palawan/Beach	02-277	97	Pashaie	450 s.f. net retail increase	2	6/25/2003
		03-029	140	Pashaie	Net Increase of 115 D.U.'s	37	12/10/2003
6	Oxford						
7	Admiralty	96-169	40	DPL	Library Expansion - 2,454 S.F.	0	3/5/1997
8	Bali						
9	Mindanao						
10	Fisherman's Village						
11	Harbor Gateway						
12	Via Marina	03-030	95,LLS	Pashaie	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office	0	6/16/2004
13	North Shore						
14	Fiji Way						
					Total Trips:	266	

KSF = 1,000 Square Feet
D.U. = Dwelling Unit
Trip Rate for Senior Apartments is 0.10 ppmpht (ITE)

11/30/2006

MARINA DEL REY
TRAFFIC MITIGATION FEE ACCOUNT
ACCOUNT TF2 7703*
APPROVED PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO.	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
1	Bora Bora	112		Epstein	0038	New 120 apartment units Net decrease of 271 slips Remove: 4,000 sf office	(4)				
2	Tahiti	111		Epstein	0039	Remodel existing apartments	0	$ -			
3	Marquesas	12	Espirit Marina del Rey Phase I	Ring	98134	Net increase of 282 units, 35 senior apartment units. Net decrease of 3,600 sf retail and 237 boat slips.	52	$ 295,660	YES	2nd WB left turn lane on Washington Bl to Via Marina or traffic signal @ Washington Bl/Palaway Way	
4	Panay	15	Espirit Marina del Rey Phase II	Ring	98134	Net increase of 250 apartment units, 47 senior apartments Net decrease of 41 boat slips (demo 253 existing and construct 212 new) Demo 4,400 sf restaurant (280 seats) and add 8,000 sf retail	224	$ 1,274,560	NO	Left turn on Via Marina at Parcel 15 main driveway	No trip credit was give for restaurant since it was vacant for more than 1 year.
4	Panay	18	Dolphin Marina	Goldrich & Kest	91329	68 Market rate apt units	22	$ 125,180	YES		
4		18		Goldrich & Kest	91329	60 senior apartment units	5	$ 28,450	YES		
4		20	13953 Panay Way	Goldrich & Kest	98172	Phase I: 99 Apartment units Phase II: Net increase of 4,940 sf Yacht Club, 2,300 sf of office	41	$ 233,290	YES		
5	Palawan/Beach	97	Gold Coast Shopping 514&586 Washington Bl	Pashaie	02277	demo & replace 2 of 8 commercial buildings. Net increase of 450 sf. Possible relocation wells fargo bank from parcel 95 to parcel 97.	2	$ 11,380	YES		Going back to DRP. Project layout change due to sewer line. The revised project will be 128 sf less.
5		140	Admiralty Apt	Pashaie	03029	net increase of 108 units - demo 84 apartment units, new 172 units (15 for very low income).	37	$ 210,530	NO	Pay fair share towards restriping of Palawan Way between Washington Bl and Admiralty Way and installation of traffic signal at the I/S of Washington Bl/Palawan Way and interconnect with adjacent signals; construct 8-foot wide sidewalks along Admiralty Way	
6	Oxford							$ -			

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account.

MARINA DEL REY
TRAFFIC MITIGATION FEE ACCOUNT
ACCOUNT TF2 7703*
APPROVED PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
7	Admiralty	40	County library expansion	DPL	86169	2,454 sf	0	$ -			
8	Bali							$ -			
9	Mindanao	50	Ralph's Market Expansion	Caruso Affiliated		4700 sf expansion, café, and parking layout modification	49	$ 278,810	NO	Admin street, sidewalk, and extend left-turn at main driveway	Plot plan approved. Traffic study to be done. Estimated pm pk trip based on ITE rates.
10	Fisherman's Village							$ -			
11	Harbor Gateway							$ -			
12	Via Marina	95, LLS		Pashaie	03030	11,400 sf net retail increase, 288 restaurant seats. Net decrease of 1,300 sf in office Net decrease of 3,250 sf of bank Possible relocation of wells fargo bank from parcel 95 to parcel 97.	(59)	$ -			Net reduction of trips due to Wells Fargo bank reduction
13	North Shore							$ -			
14	Fiji Way							$ -			
PROJECTS OUTSIDE MARINA											
O		City LA	Avalon Bay Community			310 apartment units	4	$ 8,368	YES		Cat I
O		City LA	West Bluffs (Catellus)			120 single family units	2	$ 3,184	YES		Cat I
O		Culver	Costco				74	$ 117,808	YES		Cat I
O		Culver	Costco			Costco Center		$ 1,500,000	NO		County processing agreement to transfer funds from Culver City's Costco Regional Mitigation Fund to County; construction only of SR 90
O		City LA	GTE Chateau Marina		C/O LA	500 APARTMENT UNITS Cat I fee	48	$ 78,418	YES		

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account.

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MARINA DEL REY
TRAFFIC MITIGATION FEE ACCOUNT
ACCOUNT TF2 7703*
APPROVED PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
O		City LA	Playa Vista-Phase I			3,248 dwelling units, 35 ksf retail, 2,000 ksf office, 1,000 ksf studio, 120 ksf community serving uses	102	$ 162,384	NO		PV agreed to pay fee. In addition to this fee, PV will be paying its fair share towards the La Cienega Bl/Slauson Av interchange improvements.
			Playa Vista-Phase II			2,600 dwelling units, 150 ksf retail, 175 ksf studio, 40 ksf community serving uses	49	$ 78,008	NO		PV agreed to pay fee.
						TOTAL PM PEAK TRIPS	389				
						TOTAL CONDITIONED:		$4,402,248			
						TOTAL COLLECTED:		$ 897,956			
						EXPENDITURES:		$ 32,500	Note		LCTE Phase I study
						BALANCE:		$ 865,456	Note		$1.5 MILLION CULVER CITY FUND EARMARKED FOR CONSTRUCTION ONLY OF SR 90 EXTENSION

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account.

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Project No. R2005-00234-(4)
Coastal Development Permit No. 200500002-(4)
Parking Permit No. 200500004
Variance No. 200500004

Findings and Order of the Regional Planning Commission
COUNTY OF LOS ANGELES

REGIONAL PLANNING COMMISSION HEARING DATES: January 25, 2006, March 1, 2006, April 19, 2006 and June 7, 2006.

SYNOPSIS: The proposed project is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey Specific Plan. The proposal consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A Parking Permit is requested to utilize compact parking spaces. A total of 1,088 parking spaces will be provided within parking structures on-site. A Variance has been requested for the construction and maintenance of signage in excess of County code requirements.

The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant subsequently withdrew this request and has agreed to provide 54 affordable housing units; these include 17 inclusionary units for very low income tenants and 37 replacement units for moderate income tenants.

PROCEEDINGS BEFORE THE COMMISSION:

January 25, 2006 Public Hearing

A duly noticed public hearing was held on January 25, 2006. The public hearing opened with a presentation by staff. The Commission inquired about various issues related to the case: the overall height of the structure in reference to the height permitted in the Marina LCP; further questions pertaining to on-site parking; whether the Marina LCP permitted additional building area or density sufficient to provide additional affordable units; whether there were affordable units located in the existing apartment; an inquiry regarding trends of vehicles used in the Marina (to correspond to parking provided) and whether mixed use was proposed.

Proponent Testimony

Eight persons testified in favor of the request: the applicants, applicants' representatives, representatives of the Department of Beaches and Harbors and the Community Development Commission, a member of the Marina del Rey

Lessees association and the representative of a property owner within the vicinity of the site.

A managing partner of the proposed project initially provided testimony in support of the project. The applicant contended that the proposal was needed to respond to current market trends. Another partner stressed that the project would provide needed redevelopment for the area and would not exceed the requirements of the Marina del Rey LCP and would reduce impacts in comparison to maximum permitted build-out. He further commented that provision of affordable housing would be infeasible; the payment of the in-lieu would provide more affordable units for the public (outside of Marina del Rey) and generate funds for the Department of Health Services. The testifier also asserted that changes including elimination of direct access to Via Marina and a minor modification to on-site parking; these minor changes would not affect the conclusions of the DEIR. The applicant clarified that there are no affordable units at the existing Del Rey Shores apartment complex; mixed use is not permitted in the LCP; the apartment management contacted local residents regarding project impacts and plans were made to notify and meet with existing tenants.

The architect next testified; according to the testifier, compact parking was proposed to allow more space for landscaping; compact spaces are standard width, but shorter in length; the testifier also presented on-site landscaping and sidewalk width; the design of the project would propose a nautical theme which included a discussion of roof-top sail-like structures provided for aesthetic purposes. He also asserted that the Design Control Board accepted the design. The applicant's signage consultant next presented testimony. As part of his presentation the signage consultant presented renderings to the Commission. Another applicant informed the Commission that he could provide examples of signage comparable to signage proposed by the applicant. The Commission further inquired whether the proposal was consistent with the intent of the in-lieu fee ordinance and the purview of the applicant determining whether the fee was applicable. That applicant stressed that that additional ground rent generated by the project could provide funds for health care. In response to inquiries on the apartment parking, the applicant's architect further affirmed that the project was gated; this includes all parking.

Representatives of the Department of Beaches and Harbors and CDC presented testimony in favor of the request. The first testifier, representing Beaches and Harbors, asserted that the project provided refurbishment; that the apartment management exhibited sensitivity to tenants and the Design Control Board expressed its support of the project. The representative further contended that economic issues, consistent with the permitted density influenced development proposals in the Marina. He also noted that parameters were set with the applicant for consistency with the Marina LCP.

A representative of CDC also provided testimony in favor of the in-lieu fee request. He stressed that it would contribute to the construction of affordable units elsewhere, combined with other subsidies; in-lieu fees would apply to development projects within unincorporated Los Angels County (though not within three miles of the coast). The number of units could not be ascertained at this point.

A member of the Marina Lessees' Association presented testimony in favor of the request stating the project would provide redevelopment and much needed housing and is consistent with the Marina LCP. A representative of a lessee in the vicinity of the site also testified in favor of the request. However, the representative requested that a full analysis of sewer line capacity was missing from the Draft EIR (DEIR); there was also a discrepancy in the report cited in the DEIR and the report mentioned in the Appendix of the DEIR. A continuance was requested until the testifier had an opportunity to review the full report.

Opposition Testimony

Ten persons testified in opposition. Opposition testimony consisted of concerns expressed by environmental impacts, Plan Consistency and the provision of affordable housing

Environmental Issues and Plan Consistency

A representative of the homeowner's association for a project adjacent to the site testified in opposition noting a number of potential impacts: buildings would be nearer to homes and at higher elevations; impacts on sunlight, ocean air, traffic, water, and sewage disposal; capped oil wells and toxic waste were not adequately addressed. Another testifier contended that the project was presented pre-maturely due to a periodic review. The testifier also argued that further biotic analysis was required and traffic mitigation was not reasonable,

A resident of an adjacent project commented on the initial study and stressed that the analysis did not account for the loss in moderate income housing and displaced persons; according to the resident, cumulative impacts and biotic impacts should be further considered.

An attorney representing the homeowners to the rear of the property also testified in opposition. According to the testifier, the EIR is inadequate; LCP review is in process; it was suggested that the Commission wait until May when the review was complete. The LCP review conducted its own traffic study different than the one in the DEIR with different traffic estimates; a cap on vehicle trips precludes further development in the Marina. The testifier also claimed that the proposed building would be the second highest building in the Marina, in contrast to adjacent smaller condominiums and single-family residences. The

testifier also stated that the height of the building must be evaluated in terms of height above sea level.

A representative of a homeowner's association contended that the project was not consistent with prevailing development given its height and density; proposed building height poses wind and shade impacts; noise and air pollution impacts were also mentioned. The testifier further stressed impacts on privacy, curbside parking, traffic safety and infrastructure and services, given construction of other large projects in the area. The testifier also stressed that increased paving will exacerbate water runoff and flooding.

A representative of the Coalition to Save the Marina asserted that the Marina was originally intended for a small craft harbor, current trends in development are not consistent with this intent; furthermore, the Marina is public use; the testifier inquired how the Marina could be used to house private individuals on public land. The project also posed quality of life and infrastructure impacts. A representative of various environmental groups also questioned the adequacy if the DEIR in evaluating biotic impacts.

Affordable Housing

An attorney representing People Organized for West Side Renewal (POWER) testified in opposition to the in-lieu fee request. According to the opposition testifier: the replacement housing obligation of the Mello Act has been overlooked; the developer is replacing demolished units with market rate units which do not correspond to the household income of tenants in the existing building; a full study of the income of the tenants must first be conducted; if low or moderate income households occupy the units, a plan for replacing the units should be provided. The testifier also suggested that the County reduce ground-rents to make affordable housing feasible; according to the testifier, it is feasible to provide affordable units on-site.

Another testifier representing the Western Center on Law and Poverty claimed that an analysis regarding the feasibility of any off-site unit was not conducted. According to the testifier: the purpose of the Mello Act was to create new affordable units; the in-lieu fee can not cover the cost of 55 affordable units. The testifier further argued that the applicant did not conduct an adequate assessment of providing additional units to cover the cost of affordable units.

A local resident and member of POWER further testified that she had witnessed residents misplaced and rents have become less affordable. On-site affordable housing should be provided. Another member of POWER also testified that affordable housing is needed to protect the Coastal Zone from gentrification. The testifier also questioned the relationship between rent reduction and providing social services. The testifier also expressed concern about congestion.

realize a return on cost of 8.1%. The testifier also claimed that more financial data was needed; there was a requirement for building replacement units, and the applicant must survey the income of tenants already relocated. The testifier requested that no approval be granted until these issues were resolved.

An attorney representing POWER further testified that measures used by the developer and County were too simplistic. According to the testifier: the analysis of the applicant did not take into account time value of money nor does it acknowledge real estate asset value; the applicant needed to consider annual Internal Rate of Return, and more information was needed to analyze development costs.

One testifier contended that parking lots are not accessible to people who need them, especially for the elderly. Another testifier commented on a shortage of on-street parking; the parking plan as proposed by the applicant was not viable with too many tandem and compact parking spaces. There was a request for a new parking plan.

Testifiers comprised of local residents maintained that the DEIR was not properly prepared. The testifiers expressed concern regarding traffic safety and visual obstructions along Via Dulce, increased traffic; how earth will be transported and associated air quality impacts. Other issues mentioned included the adequacy of sewage disposal facilities, methane gas and the mitigation of oil wells.

An attorney representing adjacent homeowners commented on the following: The project is not consistent with development or traffic capacity specified in the Marina del Rey Local Coastal Program; the analysis of wind and seismic impacts were inadequate and a phase of required road improvements have not occurred. The testifier further claimed that the County is not obtaining maximum revenue from land value.

Proponent Rebuttal

In rebuttal, the applicant's representative asserted that the applicant will review information by housing advocates; impacts on cumulative growth were addressed in the DEIR; trip fees were incorporated into the mitigation measures; trip distribution were reviewed and approved by County staff; roadways are lightly traveled and were analyzed for safety issues; air quality standards will meet those of the region, with carbon monoxide below State and Federal standards; construction practices correspond to county codes; a cumulative sewer capacity analysis was provided in the DEIR; the City and County agree that sewer capacity is adequate; an analysis of methane gas indicated no detectable amounts and the development proposed for the project was well below the cap specified in the Marina del Rey LCP.

The Regional Planning Commission continued the Public Hearing to April 19 to allow further testimony on affordable housing and other issues.

April 19, 2006 PUBLIC HEARING

A duly noticed public hearing was held. The public hearing opened with a presentation by staff.

Proponent Testimony

A representative of the applicant claimed that the project would provide 10 exterior parking spaces. Also, due to issues raised at the previous hearing regarding Mello Act compliance, the applicant withdrew the in-lieu fee request to provide as an alternative, replacement and inclusionary units; the representatives also asserted that board of supervisors, in response to Mello Act concerns raised by POWER and other low-income housing advocates, the Board approved a motion to revise the county policy; the Board also passed a motion that allowed the Del Rey Shores project to proceed. The testifier further stated that the applicant had also gathered information on the existing tenants in the building and considered the economic impacts of providing affordable housing. The representative also asserted that based upon meeting with county staff and housing advocates, the applicant will re-survey all 265 existing tenants to accurately calculate the housing replacement obligation under the Mello Act. A final draft survey was proposed. To allow sufficient time to complete the survey and respond to issues a continuance to May 17 was requested.

Another testifier represented a lessee in the vicinity of the site (Espirit project). The testifier acknowledged that the applicant had provided a Fire Safety Plan and had revised the project description regarding grading. The testifier stressed a 50% increase in grading and increase the volume of grading exported. The testifier requested a grading plan. An analysis of trunk line sewers was also requested. The testifier also requested conditions regarding the applicant's participation in the Coastal Improvement fund and also restricted hours for pile driving.

Opposition Testimony

A testifier of the Legal Aid Foundation representing the Western Center on Law and Poverty (WCLP) and POWER expressed concerns with the tenant survey proposed by the applicant; the applicant has not examined the incomes of tenants who were relocated. The testifier also wanted to ensure that updated data was used in the survey. The testifier also objected to replacement of the low and moderate income units with moderate income replacement units, which she contended was unlawful under the Mello Act. The applicant should also look at tenant income and not monthly housing costs; consider units occupied by management employees; 14 vacant units should be included in the new survey

and students occupying units should also be considered. The testifier also requested more information regarding the criteria the applicant used to define household or family.

A representative of the WCLP questioned the applicant's interpretation of county density bonus provisions in determining the provision of affordable housing and feasibility; according to the testifier, the applicant has not provided sufficient information to justify why 5% of very low units were provided rather than 10%. The testifier requested that the applicant's current proposal should be denied.

A financial consultant representing POWER contended that the applicant's approach was simplistic, overly-conservative, did not consider the time value of money and disregarded capitalization of the project. Using methodology used by the applicant, the testifier found that the provision of 10% very low income inclusionary units and 30 moderate income replacement units are feasible. The testifier also questioned the developer's threshold of return on cost of 8% versus 7% which the testifier believed was the correct measure. The testifier claimed the developer's approach would lead to a loss in full lease rate of 10.5 % of the land and a loss in 22 very low income inclusionary units. Further testimony also asserted that the Mello Act requires that low-income units be provided on-site to the greatest extent feasible.

Other testimony questioned the adequacy of the EIR. According to the testifier development permitted in the Via Marina Development Zone was miscalculated. the testifier questioned the decrease in units. The testifier also claimed that the EIR manipulated data in favor of an alternative that provided no affordable housing. This analysis also included trip generation and air quality.

A resident of a neighborhood in the vicinity of the project (Oxford Triangle) requested notification of neighborhood councils of development proposals. The testifier also expressed concerns about a sewer problem, particularly storm water runoff in the area. Another testifier expressed opposition due to displacement of residents from redevelopment activity and traffic on Lincoln Boulevard.

An attorney representing a development within the vicinity of the site requested delay of the decision until responses to the Marina LCP review were released. He also proposed that a form by used to track all development The testifier also stressed a discrepancy existed between unit counts and traffic projections conducted by Crain and Associates (used in the Draft Environmental Impact Report) versus those used by the Los Angeles Department of Transportation.

Proponent Rebuttal

A representative of the applicant asserted that the replacement of housing units in kind was not consistent with settlement agreement with the city of Los Angeles. The testifier disagreed with the concept that affordable housing be

provided "to the greatest extent feasible" was not consistent with the Mello Act which uses "where feasible". Considering project finance issues, this threshold is practical.

Letters submitted responded to comments regarding sewer and water capacity; The Department of Public Works has given the applicant a Will Serve letter. The force main is in the process of being upgraded. The applicant will submit a grading plan to confirm the amount of the grading. The representative also contended that the Final EIR will address impacts of the export of dirt from the site.

Following rebuttal testimony, the Commission requested that the Department of Pubic Works provide a timeline and capacity on force main responding to concerns expressed in testimony. The Regional Planning Commission continued the Public Hearing to June 7, 2006, to respond to some of the issues expressed in testimony and allow further testimony on affordable housing and other matters.

June 7, 2006 Public Hearing

A duly noticed public hearing was held. The public hearing opened with a presentation by staff.

Proponent Testimony

The project applicant apprised the Commission of work on a variety of issues related to Mello Act compliance. This included the issuance of a tenant income survey, providing information of financial feasibility of on-site affordable housing. The attorney further stated that based upon working with staff and an extensive survey of jurisdictions throughout the state the proposal is fully consistent with the letter and spirit of the Mello Act and is fully reflective of information provided in the tenant income survey. The number of replacement and inclusionary units constituted 10% of the total units. The testifiers further clarified their previous statements on Mello Act issues with the Commission.

Opponent Testimony

An attorney of the Legal Aid Foundation representing POWER and the WCLP provided further commentary. According to the testifier, the applicant proposal of 38 units was a "step backward" in that the applicant reduced very low income units from 24 to 17; the applicant traded provision of very low income units on a one-for-one bases with moderate income replacement units; the applicant reduced the number of affordable bedrooms from 82 to 73 and affordable units from 56 to 55. The testifier further urged the commission to provide replacement units on a one-for-one basis and like-for-like income units targeted to the income level of units lost. Another testifier representing POWER argued that based upon

the income survey, a market rate of return and lease rates, it is feasible for the applicant to provide 54 inclusionary units and 38 replacement units.

Another testifier from the Legal Aid Foundation stressed that it was within the Commission's purview to extend its consideration beyond land use issues to consider economic data, lease rates and other information related to feasibility of complying with the Mello Act.

A representative of the Marina Strand Colony II Homeowner's Association inquired on the status of responses to environmental issues which included traffic and deficiencies in the Draft EIR. Staff responded that all environmental issues will be responded to in the Final Environmental Impact Report.

An organizer for POWER next testified that the applicant's latest proposal provided nine fewer bedrooms, which included a substantial shift of very-low income units to moderate income units. According to the testifier, the previous proposal offered significantly more affordable units. The testifier also requested the any future proposals by the applicant be made public two weeks prior to the hearing date.

An attorney for the Marina Strand Colony asserted that no notice was given to his clients regarding a Design Control Board hearing on this matter and requested that issues relating to visual impacts be referred back to the Design Control Board. His clients wish to provide documentation of visual impacts on Via Marina and Ballona Creek.

The testifier also stressed that the issue regarding Marina Development caps have not been resolved and that individual surveys be done of each project. The testifier felt the cap has been exceeded and cited a report from the City of Los Angeles.

According to the Commission's request, the Director of Beaches and Harbors testified that the development proposal before the Commission is well below the cap specified in the Marina LCP.

Proponent Rebuttal

In rebuttal, an attorney for the applicant commented that the project would provide an unprecedented amount of replacement and inclusionary housing; the burden requested by the applicant would be excessive and infeasible. The attorney also asserted that regarding the issue of like-for-like replacement of affordable units, the City of Los Angels settlement agreement, supported by the housing advocates did permit replacement of very low income with moderate income units; the policies of other jurisdictions were reviewed as well. He also contended that the Mello Act defines the extent of providing affordable housing "where feasible" not to the maximum extent. The testifier further claimed that the

rents used in the analysis presented by the housing advocates are much higher than the rents that the county, market research and third party appraisal had verified. Operating and construction costs are also lower.

Considering other issues the testifier stressed that both the developer and the county (acting in a proprietary capacity) share a responsibility in providing affordable housing; the applicant did listen to request to do a tenant income survey and based on the results of this survey, the number of inclusionary units required were less; all environmental issues were addressed at the hearing will be responded to the Final EIR, including visual and sewer-related impacts; analysis has determined that the project is well below the trip. A representative of the project also asserted that the Design Control Board meeting was adequately noticed and that, in his opinion, the project is consistent with the Mello Act.

In response to a Commission inquiry, the applicant further contended that the change in affordable units was based on an evaluation of feasibility; the applicant must meet a debt-service coverage ratio to obtain a loan. The subsidy for very low income units has increased from a prior proposal due to requirements based on different income level standards.

Conclusion

The Commission further clarified that the county is not a co-developer of the project. The Commission then asked County Counsel to clarify the draft Marina del Rey affordable housing policy as it reflected the project.

County Counsel first asserted that while the Coastal Commission is reviewing the LCP and may be providing the comments it does not impede the Commission ability to review the project under the existing LCP. In addition, County Counsel further commented that the Board of Supervisors in their motion of April 4, 2006, bi-furcated Marina Affordable housing policy separate from the Del Rey Shores project.

Nothing in the Mello Act suggests that obligation to provide affordable housing in the Coastal zone is to the maximum extent feasible. The Mello Act requires that on-site inclusionary housing "where feasible". If it's not feasible, the applicant is required to look within three miles of the Coastal zone. It does not push developers to the brink of infeasibility. Under the Mello Act there may be situations where no low-income housing is provided in the coastal zone.

County Counsel also asserted that it is impossible and unreasonable to suggest that replacement is entirely separate and apart from the obligation for inclusionary; they are not to be considered separately.

Regarding the applicant's calculation of inclusionary housing, the applicant conducted a survey that was audited by the CDC and calculated for the survey the number of replacement units. The formula used by the applicant is reasonable and supported by the Mello Act; furthermore the Mello Act supports the approach of replacing units with low-income tenants with moderate income units.

On a Motion by Commissioner Rew seconded by Commissioner Bellamy the Regional Planning Commission closed the hearing and expressed their intent to approve the project, for staff to prepare final conditions to include additional conditions that were recommended by staff in their report and to prepare the Final environmental document.

Findings

1. The applicant has requested a Coastal Development Permit for the demolition of the existing apartment and replacement with the proposed 544 unit apartment; a Variance for the installation of sign area and size requirements in excess of Los Angeles county code, and a Parking Permit for the provision of compact parking for a portion of the on-site apartment parking.

   The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment. The applicant withdrew this request and will provide 37 replacement units and 17 inclusionary units.

2. The subject property is located at 4201 Via Marina in Marina del Rey (Parcels 100 and 101). The project site is bounded by Via Marina to the east, Dell Avenue to the west and Marquesas Way to the south. The property is also located in the Playa del Rey Zoned District.

3. The subject property is located on level terrain in a highly urbanized area devoted primarily to condominium and multi-family residential use.

4. The subject property is zoned "Specific Plan" within the Marina Del Rey Local Coastal Program (LCP). This corresponds to a designation of "Residential V".

5. Zoning on the surrounding properties consist of the following:

   North: Residential V

   South: Open Space

   West: City of Los Angeles

East: Residential IV and Open Space

6. A 202-unit apartment complex currently exists on the subject property.

7. Land Use on surrounding properties consist of the following:

   North: Multi-family Residential

   South: Vacant

   West: Condominiums

   East: Multi-Family Residential and Open Space

8. Three Plot Plan cases were previously filed on the subject property; two under the same project number. Each is listed in chronological order.

   Plot Plan 16912

   Applicant: Del Rey Shores North.

   Description: Plot Plan to authorize development on northerly parcel. The Plot Plan was approved April 29, 1968.

   Plot Plan 27118

   Applicant: Del Rey Shores.

   Description: Plot Plan to authorize car ports. Plot Plan was approved February 20, 1975

   Plot Plan 27118

   Applicant: Del Rey Shores.

   Description: Plot Plan to authorize an office manager's apartment. Plot Plan was approved October 30, 1984

9. No record of enforcement action was found.

10. The site plan depicts a proposed 544 unit apartment consisting of 12 buildings 75-feet in height, five stories of apartments over two levels of parking. Architectural features extend approximately 25 feet above the roofline for the purpose of screening roof-top equipment.

The primary entrance to the apartment complex fronts Panay Way and Via Marina. Tenant parking takes access off Dell Avenue to the rear of the structure through three ramps; tenant parking has gated access. The two levels of parking consist of one subterranean level. A total of 1,088 parking spaces will be provided throughout the project; 328 of these spaces are allocated to compact parking; 742 spaces are standard and 18 spaces are allocated to handicapped parking.

11. The Marina del Rey Local Coastal Program (LCP) provides development guidelines for the unincorporated community of Marina del Rey. The Marina del Rey LCP consists of two sets of inter-related requirements: the Marina del Rey Land Use Plan (land use policies) and the Local Implementation Program or Specific Plan (development-specific requirements). The following analysis identifies policies in the Marina del Rey Land Use Plan applicable to this proposal.

12. The subject properties is designated "Residential V" in the Marina del Rey Land Use Plan. The Marina Land Use Plan specifies

    "...high density multi-family residential development up to 75 dwelling units per net acre. Height limit is 225 feet."
    (Page 8-10, Marina del Rey Land Use Plan, February 8, 1996).

13. The subject property is also located within the Via Marina Development Zone. The project is consistent with height requirements for this zone.

14. As specified in Section 22.46.1380 of Los Angeles county code, the Residential V category is intended:

    "...as a high-density residential category permitting up to 75 dwelling units per net acre."

    The proposed project meets density requirements of this category.

15. The Marina del Rey Specific Plan lists "Multi-Family dwellings no more than 75 dwelling units per acre" as a permitted use in the Residential V category (Section 22.46.1310 (A). The proposed project is consistent with this requirement

17. Under Section 22.46.1210 (B) principal permitted uses require a Coastal Development Permit unless they are specifically exempted or categorically excluded. These provisions do not exempt this proposal

18. Section 22.46.1330 specifies development standards for all uses in the Residential V category. Applicable requirements are listed as follows:

Height: Building height is limited to a maximum of 225 feet; The proposed apartment is 75 feet in height. Architectural features on the roof are approximately 25 additional feet above the roof line. Regardless, the overall height of 100 feet, which includes the architectural ornamentation, the proposed development is well below the maximum height of 225 feet and is in compliance.

Density: Dwelling Unit Density shall not exceed 75 units per acre. The project proposes 544 units on 8.31 acres. This amounts to a project density of 65 units per acre. Project density complies with the specific plan.

Setbacks: Front and Rear yard setbacks shall be a minimum of 10 feet in addition to the required highway and promenade setback. Side yard setbacks shall be a minimum of five feet. Front, rear and side yard setbacks comply.

19. According to Section 22.46.1060 (A) of the Marina del Rey Specific Plan, landscaping shall be provided to prevent erosion. The applicant has provided sufficient landscaping within the central courtyard of the site and along the boundaries and edges facing public streets. Dell Avenue is a service street providing access to the rear of the property.

20. Section 22.46.1060 (B) specifies lot coverage not to exceed 90% of net area. A minimum of 10% of the net area is required to be landscaped. Lot coverage on the proposed project is approximately 38% considering the building foot print. The applicant has provided 25% of landscaping. In both cases the site plan is sufficiently over minimum required standards.

21. Section 22.46.1180 requires that an application for new development shall provide the following information.

    A. Protection and Enhancement of Shoreline Access and Views: This requirement is intended for shoreline development, located between the shore and the first public road, to ensure that visitors have adequate visual and shoreline access. As the project is located westerly of Via Marina, this requirement is not applicable.

    B. Wind Study: A Wind Study was conducted by Rowan, Williams, Davies and Irwin, dated March 30, 2005. Wind Roses (patterns) were also provided and used in the analysis. The analysis concluded that the proposed project would not significantly affect wind conditions in Marina del Rey.

    C. Avoidance and Mitigation of Geologic/Geotechnical Hazards: The Environmental Impact Report analyzed potential impacts from

Geologic/Geotechnical Hazards; these were determined to be less than significant.

D. Protection of Cultural Heritage Resources: An apartment building has already been established on-site; The Initial Study did not indicate potential cultural impacts.

E. Avoidance and Mitigation of Flood Control Hazards: Hydrology impacts were analyzed in the Draft Environmental Impact Report. Mitigation measures including Best Management Practices were recommended. With mitigation the project impacts were determined as less than significant.

F. Protection of Gas Company Facilities: The project does not pose any impacts to Gas Company Facilities.

G. Conformance with Development Phasing Plan: The project will generate a net increase of 342 units. Section 22.46.1910 of the Marina Specific Plan allocates 530 dwelling units to the Via Marina Development Zone (Zone 12). According to estimates conducted by the Department of Public Works no increases in dwelling units occurred in Zone 12 since the certification of the Marina del Rey Local Coastal Program (LCP). The increase in dwelling units is within the specified limits.

H. Direct Traffic Mitigation: The Environmental Impact Report recommends widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao.

I. Mitigation of Cumulative Impacts of the Subregional Traffic System: The Environmental Impact Report also recommended that the applicant pay a Traffic Mitigation Fee that funds cumulative impacts. Conditions of approval also require the applicant to participate in the Coastal Improvement Fund.

22. A Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking. According to the applicant, the request is needed to maximize on-site parking and to provide more space for landscaping.

23. According to Section 22.52.1180 of Los Angeles County code, parking spaces for apartments shall be standard size unless compact are allowed by a Parking Permit. Of the 1,088 parking spaces, 742 standard parking spaces and 328 compact spaces are proposed. Of the 1,088 spaces, 514 spaces are proposed in a tandem configuration. To fulfill the requirements of County Code the applicant must substantiate that that the proposed

apartments have a parking management program to ensure the efficient distribution of spaces.

24. According to the commission's request, the applicant provided a parking management plan and more detailed renderings of the proposed parking. A written parking analysis and management plan was submitted by the applicant's consultant Walker Parking Consultants in the report, "Shores Apartment Complex Project: Parking Management Plan." dated, February 15, 2006. The report covered proposed parking layout, security, method of operation and parking space allocation. The report was submitted to the Commission's satisfaction.

25. The applicant has requested a Variance for the construction and maintenance of signage in excess of Los Angeles county code requirements. Signage is concentrated primarily on the northeasterly portion of the site. The Variance is needed to provide visibility to prospective tenants, some of which will require affordable housing, and to allow a similar right enjoyed by comparable projects within the vicinity of the site.

26. Section 22.46.1060 (D) (2) refers sign regulations of each Marina del Rey land use category to those of a particular zone. Standards for Residential V follow R-4 zoning requirements. According to Section 22.52.930 of Los Angeles County code, one wall mounted business identification sign, not to exceed six (6) square feet in sign area shall be permitted,

27. In a presentation to the Commission the applicant's representative provided detailed renderings of the proposed signage. Examples of comparable signage within the vicinity of the project have also been provided. The Commission determined that the information provided was sufficient to substantiate the applicant's request.

28. The Marina del Rey Specific Plan requires that signs shall be detailed as possible without becoming unreadable. The Design Control Board regulates signage through its "Revised Permanent Sign Controls and Regulations" (Section 22.46.1060 (D) (1))

29. The subject signage was reviewed by the Design Control Board. The design of the sign is readable. Design of the signage will conform to Design Control Board requirements.

30. The proposed Project is subject to California Government Code Sections 65590 and 65590.1 (the "Mello Act" of 1982), which provide, in pertinent part, that, within the Coastal Zone: (a) the demolition of existing residential dwelling units occupied by persons and families of low- or moderate-income shall not be authorized unless provision has been made for the replacement of those dwelling units for persons of low- or moderate-income (i.e.,

"affordable replacement" dwelling units); and (b) new housing developments shall, where feasible, provide housing units for persons and families of low- or moderate-income (i.e., "affordable inclusionary" dwelling units).

31. In 2002 the Board of Supervisors adopted a policy that implemented Mello Act requirements unless a developer could prove that the provision of affordable units on site would make the project infeasible and there was no means for the county to make economic concessions to accommodate the affordable units on-site.

32. The Applicant originally proposed to pay an in-lieu fee of approximately $3.8 million in accordance with the 2002 County Affordable Housing Policy for Marina del Rey. This policy, which was in place four years ago when the applicant first signed a term sheet, reflected County public policy priorities and objectives at that time.

33. The applicant submitted a letter dated November 17, 2005 to the Department of Regional Planning, Beaches and Harbors and the Community Development Commission. This letter presented a formal request to pay an in-lieu fee in concert with the County's policy. The letter provided an analysis to support the infeasibility of providing 10% of affordable units; the letter presented problems associated with a range of alternatives including rent reduction, density bonus, below-market bond financing and tax credits. The applicant requested consideration by the County agencies that the fee would be utilized for providing affordable housing elsewhere in the county.

34. The first public hearing before the Regional Planning Commission on January 25, 2006, provided an opportunity for the County to reassess its Affordable Housing Policy for Marina del Rey. The County's public policy priorities shifted toward affordable housing on-site in new projects in the Marina.

35. On April 4, 2006 the Board of Supervisors adopted a motion that instructed the Chief Administrative Officer to form and lead a task force comprised of the Department of Regional Planning, Community Development Commission and County Counsel, working in conjunction with the Department to Beaches and Harbors. The purpose of this task force was to review the County's current affordable housing policy for Marina del Rey and recommend revisions necessary to ensure consistency with the Mello Act. The Board also directed the task force to report back within 60 days with a revised affordable housing policy for review and further recommendations.

    As further delay would cause a hardship to the applicant, the Board of Supervisors also authorized, as part of its motion, for the Project to proceed

prior to formal adoption of the new policy based on the on site replacement and inclusionary unit requirements. The Director of Beaches and Harbors was instructed to discuss onsite low income housing opportunities with the lessee of the project and bring back to the Board within 30 days an amended leasehold agreement, as necessary to ensure the project's consistency with the Mello Act.

36. The County is currently in the process of developing a new policy. It is anticipated that the Board of Supervisors will adopt this new policy in 2007 after further consideration and public input.

37. The applicant submitted a letter dated April 10, 2006, requesting to withdraw their application for payment of an in-lieu fee.

38. The applicant informed the Commission that it would conduct a detailed income survey of existing apartment tenants residing on the subject property to determine whether any of the existing dwelling units were are eligible for replacement pursuant to Mello Act requirements.

39. On May 22, 2006, the applicant submitted a letter summarizing the process for determining affordable replacement units. The applicant prepared a Coastal Housing Tenant Questionnaire and Tenant Financial Information Form following guidelines prescribed by the Affordable Housing Task Force for Marina del Rey.

40. The applicant's tenant income survey included mailing by certified mail a County-approved questionnaire and tenant financial information form to each of the tenants of the existing Del Rey Shores Apartment complex developed on the subject property. The applicant followed up by telephone with all tenants who did not respond to the mailed survey, using a County-approved telephone script to elicit tenant responses.

41. County Department of Regional Planning (DRP) and Community Development Commission (CDC) staff independently reviewed, and determined valid, the methodology and results of this tenant income survey. The Commission also analyzed the Applicant's tenant income survey methodology and results and finds them to be valid and in full compliance with the requirements of the Mello Act.

42. The Mello Act does not set forth specific procedures for determining replacement units. Rather, the Act provides local jurisdictions with the discretion to implement the Act's requirements. For the proposed Project, the number of replacement units was determined based on data from the tenant income survey, guidelines for analyzing the survey information from the County's Mello Act Compliance Task Force and criteria for determining replacement units from the County Chief Administrative Office.

43. The Task Force established a three-step approach to determine replacement unit status: 1) Current tenant income information from the tenant survey must be used; 2) If the tenant does not return the survey after the requested return date, despite follow-up telephone calls, the guidelines require the use of tenant income information less than two years old on file with the landlord, and, 3) When this information is not available, the rent for the unit is to be compared to the 2006 affordable rent levels established by the State Department of Housing and Community Development (DHCD); in these cases, any unit rents that are below the moderate-, low- or very low-income levels defined by the DHCD would be cause for replacement.

44. For the proposed Project, the tenant income survey disclosed that some of the existing apartment units are occupied by resident managers, sub-tenants, students claimed as dependents by their parents or whose parents guarantee the lease. Other units are vacant.

45. The Mello Act does not prescribe how local jurisdictions are to assess replacement unit eligibility in instances when existing units are occupied by resident managers, sub-tenants, students claimed as dependents by their parents or whose parents guarantee the lease, or for vacant units. The Task Force concluded that such units were not subject to the Mello Act's replacement unit obligation, for the following reasons:

    Resident managers are employees and are not typically considered tenants under landlord-tenant law. Units with resident managers were excluded because the Mello Act focuses on providing replacement units for units occupied by tenants, not employees;

    The landlord does not have a contractual relationship, and may not even be aware of sub-tenants. It would not be fair for landlords to have to provide replacement units for sub-tenants. Furthermore, it may not be feasible to obtain financial information from individuals not named on the lease;

    Students who are financially dependent on their parents generally have far greater financial resources than the low- and moderate-income tenants that the Mello Act is intended to address. Moreover, by providing parent financial information or guarantees, the students are using their parent's financial resources to induce the landlord to rent the unit. It would not be fair to ignore this information for the purposes of determining replacement unit status; and

    The Mello Act expressly limits the replacement unit obligation to those units which are actually occupied by low- or moderate-income tenants. Consistent with the Mello Act, the Task Force reviewed all evictions from the existing units since May 1, 2005. The Applicant provided copies of court

judgments showing that the two evictions during this period were for nonpayment of rent.

46. The Mello Act provides that if an existing unit is occupied by more than one person or family, the replacement housing obligation is required if at least one person or family is of low- or moderate-income. However, the Mello Act does not prescribe how the replacement housing obligation applies to portions of units.

47. For the proposed project, the Task Force determined that in the two cases where two unrelated people occupied a two-bedroom unit, but where only one of the persons in each such unit was of low- or moderate-income, the replacement obligation shall be two one-bedroom units rather than two two-bedroom units. The Commission finds this to be consistent with the Mello Act.

48. Based on the foregoing criteria, the applicant determined that 38 units qualified as replacement units.

49. In a letter dated May 30, 2006, to the Regional Planning Commission, the Los Angeles County CDC confirmed that it had conducted an audit of the tenant survey information submitted by Del Rey Shores. The CDC hired an independent consulting firm DRA, Incorporated, to review all files with CDC staff. While the audit determined that the replacement unit estimate was correct, there was further discussion regarding the counting of tenants covered by a rental agreement. It was subsequently determined that if only those tenants covered by a rental agreement are included, this would result in 37 replacement units; 37 moderate income replacement units were recommended. These include 27 one-bedroom and 10 two-bedroom units. The Commission concurs with the provision of 37 replacement units.

50. The Mello Act states that units occupied by low- or moderate-income persons or families may not be converted or demolished "unless provision has been made for the replacement of those dwelling units with units for persons or families of low or moderate income." The Commission does not interpret this language as requiring a "like-for-like" replacement (i.e., replacing existing dwelling units with new units at the same affordable income level). The Commission therefore finds that the Task Force's recommendation that all of the proposed Project's 37 replacement units be made affordable to individuals or households with moderate incomes, as defined in Health & Safety Code Section 50093, to be fair, reasonable and consistent with the Mello Act.

51. The Applicant's provision of 37 affordable replacement dwelling units in the proposed Project is in full compliance with Mello Act requirements. The Commission has conditioned its approval of the Project Coastal

Development Permit to require the Applicant to enter into a covenant with the County stipulating that these 37 affordable replacement dwelling units shall be maintained on the Property at the moderate-income affordability level for a term of no less than 30 years. Such covenant shall stipulate that the affordable replacement dwelling units be reasonably dispersed throughout the Project and provided within three years of commencement of demolition of the existing units.

52. The Mello Act does not specify a formula, specific number or percentage of required affordable inclusionary dwelling units; the Act requires only that these units be provided "where feasible." Nor does the Mello Act require that these units be set aside for a particular income category (i.e., low- or moderate-income). The Task Force has found that a survey of other cities and counties in the coastal zone shows that different jurisdictions have established different approaches to meeting the Mello Act's inclusionary unit requirements.

53. The current County Affordable Housing Policy for Marina del Rey includes a goal of 10 percent low-income units. The 10 percent goal does not, however, take into account the Mello Act's replacement housing obligations. The Mello Act clearly requires housing developments to provide on-site inclusionary units only "where feasible." The determination of whether it is feasible to provide affordable inclusionary dwelling units must necessarily take into account a project's replacement housing obligation, because the number of replacement units required will have a direct bearing on the feasibility of providing inclusionary units.

54. The proposed Project will provide seventeen (17) very low-income inclusionary units, which represents five percent of the net incremental new units to be constructed on the Project site.

55. The proposed project requests authorization for the demolition of 202 existing units and redevelopment of 544 units on the same site, an incremental increase of 342 units. Throughout the environmental review process, the impact of the Project has been consistently defined by an evaluation of the incremental (or "net") increase between the existing project and the proposed project. Furthermore, as described above, the 202 existing units are subject to the replacement unit requirements of the Mello Act, which assures that the Project will include that same number of affordable housing units as currently exist at the site. Further, as noted above, the Mello Act does not specify any formula for complying with the inclusionary requirement. Therefore, the Commission finds that it is fair, reasonable and consistent with the Mello Act to determine the appropriate number of affordable inclusionary dwelling units, "where feasible," based upon the net increase in the number of units attributable to redevelopment; for the proposed Project, this net increase amounts to 342 units.

56. As noted above, the proposed Project will provide all 17 inclusionary units at rent levels affordable to very low-income individuals and households. This approach is consistent with current State density bonus law, which requires a density bonus for projects that either provide 10 percent of the units as low-income units or 5 percent as very low-income units. Also, in providing very low-income housing on-site, the proposed Project will address members of the population most in need of affordable housing.

57. The Mello Act requires the County to offer density bonuses and other incentives to assist in providing new affordable housing unit. However, the Commission finds that a density bonus is not feasible in this case because: 1) 544 is the maximum number of dwelling units that can be built using the proposed type of construction; a larger project would require a different and significantly more expensive type of construction, which would adversely impact feasibility; 2) 544 units is well within the parameters for density and height as called for in the Marina del Rey Local Coastal Program; and 3) unlike the proposed 544-unit Project, the construction of a project with more than 544 units would have the potential to impact the character of Marina del Rey and result in significant environmental impacts, including traffic and other infrastructure impacts. The Commission has rejected as infeasible the density bonus alternative set forth in the Project EIR.

58. The Mello Act requires projects to provide on-site affordable inclusionary units only where feasible. The Mello Act defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, social, and technical factors." The county-sanctioned analysis has determined that it is feasible for the Applicant to provide 17 very low-income units on-site.

59. The Commission finds that the on-site provision of 17 very low-income inclusionary units is in full compliance with Mello Act requirements. The Commission has conditioned its approval of the Project Coastal Development Permit to require the Applicant to enter into a covenant with the County stipulating that these 17 affordable inclusionary dwelling units shall be maintained on the Property at the very low-income affordability level for a term of no less than 30 years, and that these units shall be reasonably dispersed throughout the Project.

60. The Commission further finds that, with the applicant's on-site provision of 37 moderate-income replacement units and 17 very low-income inclusionary units (totaling approximately 10 percent of the new units), the proposed Project fully complies with the Mello Act.

61. A legal notice was published in the local newspaper, *The Argonaut*, on December 1, 2005. Staff also mailed out 1,798 hearing notices on

December 7, 2005 to property owners and tenants within 500 feet of the site and interested parties. The applicant posted a hearing notice sign on the subject property prior to 45 days before the public hearing.

62. Staff received letters and e-mail in opposition to the request, with concerns about height and visual impacts, excessive density, increased traffic congestion, noise, traffic safety, impacts on local character, inadequate parking, impacts on local schools and hospitals, potential overcrowding of the proposed units, accuracy of the environmental document and objections to the original in-lieu fee request. Concerns were also expressed regarding the proposed grading, provision of a fire safety plan, compliance with the Mello Act and the county reviews of pending projects in consistency with the Marina del Rey LCP. Another request was made to postpone the decision on the project until the county had addressed California Coastal Commission comments in its periodic review of the Marina del Rey LCP. Most opposition letters had addresses on Via Dulce, located within the city of Los Angeles.

63. Staff received comments from the City of Culver City in a letter dated, January 18, 2006. The letter questioned certain sections of the visual and traffic analyses, requested better specificity of road improvements and recommend the adoption of a Statement of Overriding Considerations.

64. The applicant has provided a fire safety plan to County Fire and an updated grading plan to the Department of Public works for review.

65. As previously determined in Finding 21 (G), the project will generate a net increase of 342 units. Section 22.46.1910 of the Marina Specific Plan allocates 530 dwelling units to the Via Marina Development Zone (Zone 12). According to estimates conducted by the Department of Public Works no increases in dwelling units occurred in Zone 12 since the certification of the Marina del Rey Local Coastal Program (LCP). The increase in dwelling units is within the specified limits.

66. The California Coastal Commission does not impose a moratorium on development proposals during the period it provides and receives comments on the implementation of a Local Coastal Program.

67. Under California Environmental Quality Act (CEQA) guidelines, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the project. The Draft Environmental Impact Report (DEIR), dated September 2005, identified five potential impacts: aesthetics, air quality, geotechnical/soil resources/environmental safety, hydrology and water quality, noise, traffic/access, water service, sewer service and solid waste disposal. A summary of the impacts, recommended mitigation as

presented the Mitigation Monitoring Plan (MMP) and determination of potential significance is provided as follows:

A. Aesthetics: The height of the proposed apartment structures are out of character with existing development located to the south; however, the proposed structures also comply with height requirements of the Marina Specific Plan. A tall apartment building is also located northerly of the site; this building exceeds the height of the subject apartments by several stories. The DEIR also noted that the project was reviewed and approved by the Design Control Board. Further analysis was conducted by the applicant regarding shading and shadows of the structure. indicating shadow effects at various times of the day. Report relied on city of Los Angeles thresholds as westerly structures are located in the city of Los Angeles. While some shading was estimated before 9:00 a.m. these impacts were not determined significant. Overall, no significant impacts were determined regarding aesthetic impacts.

   Furthermore, the applicant provided maps clarifying distances between structures; Distances ranged from 71' – 87'. Maps were also submitted indicating the permissible heights and heights of approved projects. The height of the structure on Parcel 103 was at a greater elevation; those to the west were lower.

B. Air Quality: The DEiR notes air quality impacts generated by emissions from demolition and construction and project operation. Recommended mitigation includes a construction management plan, plans for dust abatement, methods that re-reroute or reduce construction-related trips. Conditions of approval also provide measured for controlling dust and emissions. Air quality impacts related to construction are determined to be significant and unavoidable. Air Quality impacts are temporary.

C. Geotechnical Impacts: The project can potentially encounter seismically-induced impacts that can occur throughout the Marina. These include ground shaking and liquefaction. The MMP lists mitigation that controls erosion and drainage. Also presented were conformance with building codes, a pile foundation system and testing for expansive soils and (if needed) methane gas protection systems. Less than significant impacts were determined.

D. Hydrology and Water Quality: The proposed project is subject to erosion, sedimentation and water quality impacts during demolition and construction operations. The project will be required to follow the Federal Clean Water Act guidelines; the applicant will also install bioswales that would filter the runoff before it enters the drainage system. Also included are materials storage and spill prevention procedure. Less than significant impacts.

E. Noise: Noise impacts would be generated on the adjacent area primarily by construction activity. Some noise impacts may be related to project operation, as a consequence of increased traffic trips, though not to the degree of construction noise. Mitigation measures include scheduling of construction related activities, noticing and the use of or maintenance practices that reduce potential noise. Conditions of approval place restrictions on hours of construction activity and pile driving. Noise impacts related construction and vibration are unavoidable and significant. However, these impacts are of a temporary nature.

F. Sewer Service: The project is estimated to generate a net increase of 57,058 gallons of wastewater per day. The DEIR determined that existing treatment facilities could accommodate this flow. The applicant will be required to pay connection fees and provide a "will serve" letter." The applicant is also required to pay a one-time sewer facilities charge to the City of Los Angeles to account for increase in sewer generation. No significant impacts for wastewater treatment facilities were determined; "less than significant" impacts were determined for wastewater collection system.

Furthermore, in correspondence dated May 30, 2006, the Department of Public Works reported resolution of sewer line capacity issues. The Department of Public Works had completed a comprehensive sewer area study that included the cumulative impacts of all known current and planned development in the Marina. The study identified approximately 1.25 miles of sewer pipe upgrades, Public Works estimated cost for the upgrades at $2.5 million. The upgrades will be phased in over a four-year period beginning in Fiscal Year 2007-08. Funding will come from the Marina Replacement ACO Fund. The study has shown that the section of sewer pipe traversing the Del Rey Shores property is adequate to accommodate the known current and planned redevelopment in the Marina.

G. Solid Waste Disposal: Solid waste impacts would occur from the generation of debris in demolition and construction operations, and later from project operation. While existing landfill capacity was determined adequate to serve the population, if no new landfill sites have been approved or further solid waste alternatives developed, solid waste activities could reach capacity by 2017. THE MMP requires a recycling and reuse plan for construction waste; a solid waste management and transport plan. The DEIR determined Unavoidable and significant impacts beyond the year 2017.

H. Traffic/Access: The project would generate approximately 1,354 net new trips per day. Prior to mitigation the project would generate a significant

traffic impact to the intersection of Lincoln Boulevard and Mindanao Way. The MMP requires payment of the traffic mitigation fee pursuant to the Marina del Rey TIP for local and regional improvements; widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao. The applicant would also be required to pay traffic mitigation fees that address regional traffic issues. Less than significant were determined.

I. Water Service: The DIER estimates the project will generate a net increase in water consumption of 66,187 gallons per day. Entitlements have already been secured for water delivery. The MMP also calls for the improvement in water lines in Marquesas Way and Dell Avenue, provision of a water efficient landscaping plan and water conservation measures. No significant impacts to the water distribution system are anticipated.

68. The project complies with policies of the Marina del Rey Land Use Plan and provisions of the Marina del Rey Specific Plan as incorporated in the Marina del Rey Local Coastal Program:

    A. The project has fulfilled all pertinent filing requirements specified in Section 22.46.1180 of the Marina del Rey Specific Plan;

    B. The project meets development standards specified in Section 22.46.1330 of the aforementioned Specific Plan;

    C. The project's net increase of 342 units is well within the limits of 530 dwelling units specified for the Via Marina Development Zone (Zone 12).

    D. The project meets intent of the Residential V category and all development requirements specified herein;

    E. Conditions of approval and mitigation measures require participation in contribution of a fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

69. The proposed project provides needed housing opportunities and affordable housing in the Coastal Zone in full compliance with the Mello Act.

70. Conditions of approval and mitigation measures will ensure that the proposed project will be compatible with surrounding uses.

BASED ON THE FOREGOING, REGARDING THE CONDITIONAL USE PERMIT BURDEN OF PROOF, THE REGIONAL PLANNING COMMISSION CONCLUDES:

Regarding the Coastal Development Permit:

A. That the proposed project is in conformity with the certified local coastal program and, where applicable,

B. That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code."

Regarding the Parking Permit:

C. That there will be no conflicts arising from special parking arrangements shared facilities, tandem spaces or compact spaces because:

   1. Parking facilities using tandem spaces will employ valets or will utilize other means to ensure a workable plan, or

   2. Apartment houses using compact spaces for a portion of the required parking have a management program or homeowner's association to assure an efficient distribution of parking spaces

D. That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve the property.

E. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

Regarding the Variance:

In addition to the information required in section 22.56.280 of the Los Angeles County Code, permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

F. That there are special circumstances or exceptional characteristics applicable to the property involved such as size, shape, topography, location of surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification

G. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity or zone; and

H. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity or zone.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Conditional Use Permit as set forth in Section 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission, acting in its role as responsible agency for the project, certifies that it has independently reviewed and considered the information contained in the Final Environmental Impact Report prepared by Los Angeles County Department of Regional Planning as lead agency prior to approving the project; adopts the Mitigation Monitoring Plan (MMP) which is appended to and included in the attached conditions of approval, finding that, pursuant to California Public Resources Code Section 21081.6, the MMP is adequately designed to ensure compliance with the mitigation measures during project implementation; determines that the conditions of approval attached hereto are the only mitigation measures for the project which are feasible and that the unavoidable significant effects of the project after adoption of said mitigation measures are as described in these findings; determines that the remaining, unavoidable environmental effects of the project have been reduced to an acceptable level and are outweighed by specific health and safety, economic, social and/or environmental benefits of the project as stated in the findings and in the Environmental Findings of Fact and Statement of Overriding Considerations adopted by the lead agency for the project, which findings and statement are incorporated herein by reference.

2. In view of the findings of fact and conclusions presented above, Project No. R2005-00234-(4), Coastal Development Permit No. 2005-00002-(4), Parking Permit No. 2005-00004-(4) and Variance No. 2005-00004-(4) are approved subject to the attached conditions.

VOTE

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date: December 13, 2006

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment on Parcels 100 and 101 in Marina del Rey, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements. This grant further requires the permittee to provide seventeen (17) inclusionary units for very low income residents and thirty-seven (37) replacement units for moderate income residents. This grant shall be subject to all of the following conditions of approval:

   a. The permittee shall enter into a Joint Covenant and Agreement with the Los Angeles County Community Development Commission, the County Department of Regional Planning and the Department of Beaches and Harbors stipulating that a total of fifty-four (54) rental dwelling units (the "Designated Units") of the proposed 544 units in the Project shall be income-restricted and rented only at an Affordable Housing Cost and only to households meeting the very low-income criteria applicable to the seventeen (17) inclusionary units and moderate-income criteria applicable to the thirty-seven (37) replacement units. The 54 Designated Units shall be dispersed throughout the Project and shall be compatible with the exterior design of the Project's market rate units in terms of appearance, materials and finished quality.

   b. The unit composition of the Project's 54 Designated Units shall be as follows: seventeen (17) Inclusionary units and thirty-seven (37) Replacement units. The Project's 54 Designated Units shall be as depicted on an exhibit to be reviewed and approved by the Department of Regional Planning. The Exhibit shall be titled "Project Affordable Unit Location Exhibit" with a copy filed in the case records and a copy furnished to the Community Development Commission.

   c. The Permittee shall specifically provide in each Designated Unit lease and shall strictly enforce the requirement that each Designated Unit be occupied at all times by the eligible household who has leased that Designated Unit, and that any other occupant of the unit be another qualified member of the lessee's household. CDC shall be identified as a third party beneficiary of that covenant and shall have the right to directly enforce that restriction in the event Lessee fails to do so. Prior to execution of any Designated Unit lease with respect to the Project, Lessee shall submit to CDC and obtain its written approval of a standard form occupancy lease and Lessee shall thereafter use the approved form for all leases of Designated Units in the Project, with only such further modifications thereto as are first submitted to and approved in writing by CDC.

   d. The Permittee shall carry out an affirmative marketing program to attract prospective tenants of all minority and non-minority groups in the housing market

area regardless of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, ancestry, or familial status. The affirmative marketing program should ensure that any group(s) of persons not likely to apply for the housing without special outreach efforts (because of existing neighborhood racial or ethnic patterns, location of the housing, or other factors), know about the housing, feel welcome to apply and have the opportunity to rent.

e. The Permittee shall maintain records and satisfy reporting requirements as may be reasonably imposed by CDC to monitor compliance with the tenanting requirements described in said joint covenant and agreement.

f. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Lessee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site or any portion thereof. The non-discrimination and non-segregation provisions set forth herein shall remain in effect in perpetuity.

g. Lessee shall refrain from restricting the rental or lease of the Site or any portion thereof on the basis of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry of any person. All such leases or contracts shall contain or be subject to substantially the following non-discrimination or non-segregation clauses:

h. Prior to the issuance of any building permits for the project, the permittee shall record said Covenant and Agreement in the office of the County Recorder. The permittee shall, prior to recordation in the Office of the County Recorder, submit a copy to County Counsel of the Department of Regional Planning, the Department of Beaches and Harbors, and the Community Development Commission for review and approval.

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have

been paid pursuant to Condition Nos. 10, 13, 14 and 24.

4. To the extent permitted by law, the permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

   a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

   b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

   The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing with the applicable fee six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

~~9. This grant will terminate _____, 2026.~~

~~Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the Permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for a continuance of the use permitted under this grant, whether including or not including modification to the use at that time.~~

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **$3,000.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **twenty (20) annual inspections.** Inspections shall be unannounced.

11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

    If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts reasonably necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the site plan on file. The amount charged for additional inspections shall be $150.00 per inspection, or the current recovery cost, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to permittee, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be

detrimental to the public's health or safety or so as to be a nuisance.

13. Within fifteen (15) days of the approval date of this grant, the permittee shall remit a $25.00 processing fee payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination in compliance with Section 21152 of the Public Resources Code.

14. Within 30 days of the approval date of this grant, the permittee shall deposit the sum of $3,000.00 with the Department of Regional Planning to defray the cost of reviewing the required mitigation monitoring reports and verifying compliance with the Mitigation Monitoring Plan.

15. The conditions and/or changes in the project, set forth in the Mitigated Negative Declaration as necessary in order to assure that the proposed project will not have a significant effect on the environment, are incorporated herein by this reference and made conditions of approval of this grant. The permittee shall comply with all such conditions/changes in accordance with the attached Mitigation Monitoring Plan. As a means of ensuring the effectiveness of such conditions and/or changes to the project, the permittee shall submit mitigation monitoring reports to the Department of Regional Planning for review and approval as frequently as may be required by the department. The reports shall describe the status of the permittee's compliance with the required project conditions/changes.

16. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

17. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.

18. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.

19. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not provide pertinent information about said premises.

20. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather

permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations. Inspections shall be made as provided in Condition No. 10 to ensure compliance with this condition, including any additional inspections as may be necessary to ensure such compliance.

21. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of revised plans, similar to Exhibit "A" as presented at the public hearing that clearly depicts all required project changes. The property shall be developed and maintained in substantial conformance with the approved revised Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner.

22. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director for review and approval three copies of a landscape plan, which may be incorporated into the Revised Exhibit "A" described in Condition No. 21. The landscape plan shall show the size, type, and location of all plants, trees, and watering facilities. The permittee shall maintain all landscaping in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary for the life of this grant.

23. Within ninety (90) days of approval of this grant, the permittee shall submit to the Director of Planning and Director of Beaches and Harbors for review and approval three copies of a signage plan, including elevations, proposed lettering, colors, and locations of signage on the subject property, which may be incorporated into the Revised Exhibit "A" described in Condition No. 21. All renderings of said signage shall be drawn to scale and shall be in conformity with those approved by the Design Control Board.

24. The permittee shall, to the satisfaction of the Director of Planning, participate in, and contribute to his fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

25. The permittee shall prepare a Fire Safety Plan in accordance with Section 22.46.1180 (15) of the zoning code and obtain approval of the Fire Department prior to issuance of any building permits.

26. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect property the property from fire hazard. The permittee shall provide fire flow,

hydrants, gated access width, emergency access, and any other facilities as may be required by said Department.

27. The applicant shall provide fire sprinklers in all structures in accordance with Los Angeles County Building Code, Chapter 38, Sections 3802(b) 5 and 3802 (h) to the satisfaction of the Fire Department.

28. The following conditions shall apply to project construction activities:

    a. Construction activity shall be restricted between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. to 5:00 p.m. on Saturday. No construction shall occur on Sundays and legal holidays;

    b. Pile driving shall be restricted to the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday. No pile driving activity shall be conducted on Saturdays or Sundays;

    c. All material graded shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;

    d. All fixed and mobile construction equipment shall be in proper operating condition and be fitted with standard silencing devices; engineering noise controls shall be implemented on fixed equipment to minimize adverse effect on nearby properties. Generators and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent properties. All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state, and local standards, the permittee shall maintain an equipment log. Said log shall document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling device. Said log shall be submitted to the Director and the Department of Public Works for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and

operating for more than one day within 100-feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses;

e. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the owner of said adjacent property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking;

f. The permittee shall provide adjacent property owners with a pile driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and the County Department of Public Works prior to the initiation of construction activities. In addition, the permittee shall conspicuously post a construction schedule along portions of the property fronting Via Marina, Marquesas Way, Dell Avenue and Via Dulce10 days in advance of any construction activities. The schedule shall also include information where individuals may register questions, concerns or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems;

g. All project-related truck hauling shall be restricted to a route approved by the Director of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services;

h. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air

Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:

i. Configure construction parking to minimize traffic interference;

ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person);

iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works;

iv. Consolidate truck deliveries when possible;

v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site;

vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD for daily forecasts;

vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director;

viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices; and

ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.

i. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works and the LEA, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:

i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more);

ii. Replace ground cover in disturbed areas as quickly as possible;

iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications;

iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded;

v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available);

vi. Install wheel washers where vehicles enter and exit unpaved areas onto paved roads, or wash off trucks and any equipment leaving the site each trip; and

vii. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.

j. All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles; and

k. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.

29. The permittee shall be in compliance with the attached Mitigation Monitoring Plan.

30. This grant shall not be effective until the permittee submits a plan for parking management and on-site circulation to the satisfaction of the Director on Planning and Public Works.

31. The permittee shall provide a minimum of ~~1,114~~ 1,088 parking spaces consisting of ~~925~~ 742 standard, ~~and 189~~ 328 compact spaces and 18 handicapped spaces. ~~Two-hundred and fifty seven (257)~~ Five-hundred and fourteen (514) of said parking spaces

shall be configured as tandem parking. The use of said parking spaces for storage is expressly prohibited.

32. ADA compliant sidewalks and driveways shall be constructed per the Department of Public Works satisfaction.

33. The use of the subject property shall be further subject to all of the following restrictions:
    a. The permittee shall maintain a management staff to reside on-site and be available to respond to any issues seven (7) days per week, 24 hours per day;

    b. The permittee shall post signage on the subject property providing a telephone number for the reporting of any problems associated with said apartment;

    c. Outdoor storage and the repair of automobiles shall be prohibited;

    d. The permittee shall monitor landscaping on a monthly basis and replace vegetation as needed.

34. The aforementioned conditions shall run with the land and shall be binding on all lessees and sublessees of Parcel 100 and 101.

Attachment:
Mitigation Monitoring Plan.

RJF 12-6-06

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment on Parcels 100 and 101 in Marina del Rey, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements. This grant further requires the permittee to provide seventeen (17) inclusionary units for very low income residents and thirty-seven (37) replacement units for moderate income residents. This grant shall be subject to all of the following conditions of approval:

   a. The permittee shall enter into a Joint Covenant and Agreement with the Los Angeles County Community Development Commission, the County Department of Regional Planning and the Department of Beaches and Harbors stipulating that a total of fifty-four (54) rental dwelling units (the "Designated Units") of the proposed 544 units in the Project shall be income-restricted and rented only at an Affordable Housing Cost and only to households meeting the very low-income criteria applicable to the seventeen (17) inclusionary units and moderate-income criteria applicable to the thirty-seven (37) replacement units. The 54 Designated Units shall be dispersed throughout the Project and shall be compatible with the exterior design of the Project's market rate units in terms of appearance, materials and finished quality.

   b. The unit composition of the Project's 54 Designated Units shall be as follows: seventeen (17) Inclusionary units for very low income tenants and thirty-seven (37) Replacement units for moderate income tenants. The Project's 54 Designated Units shall be as depicted on an exhibit to be reviewed and approved by the Department of Regional Planning. The Exhibit shall be titled "Project Affordable Unit Location Exhibit" with a copy filed in the case records and a copy furnished to the Community Development Commission.

   c. The Permittee shall specifically provide in each Designated Unit lease and shall strictly enforce the requirement that each Designated Unit be occupied at all times by the eligible household who has leased that Designated Unit, and that any other occupant of the unit be another qualified member of the lessee's household. CDC shall be identified as a third party beneficiary of that covenant and shall have the right to directly enforce that restriction in the event Lessee fails to do so. Prior to execution of any Designated Unit lease with respect to the Project, Lessee shall submit to CDC and obtain its written approval of a standard form occupancy lease and Lessee shall thereafter use the approved form for all leases of Designated Units in the Project, with only such further modifications thereto as are first submitted to and approved in writing by CDC.

d. The Permittee shall carry out an affirmative marketing program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, ancestry, or familial status. The affirmative marketing program should ensure that any group(s) of persons not likely to apply for the housing without special outreach efforts (because of existing neighborhood racial or ethnic patterns, location of the housing, or other factors), know about the housing, feel welcome to apply and have the opportunity to rent.

e. The Permittee shall maintain records and satisfy reporting requirements as may be reasonably imposed by CDC to monitor compliance with the tenanting requirements described in said joint covenant and agreement.

f. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Lessee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site or any portion thereof. The non-discrimination and non-segregation provisions set forth herein shall remain in effect in perpetuity.

g. The Permittee shall refrain from restricting the rental or lease of the Site or any portion thereof on the basis of race, color, creed, religion, gender, marital status, sexual orientation, age, national origin, or ancestry of any person. All such leases or contracts shall contain or be subject to substantially the following non-discrimination or non-segregation clauses:

h. Prior to the issuance of any building permits for the project, the permittee shall record said Covenant and Agreement in the office of the County Recorder. The permittee shall, prior to recordation in the Office of the County Recorder, submit a copy to County Counsel of the Department of Regional Planning, the Department of Beaches and Harbors, and the Community Development Commission for review and approval.

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and

agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 9, 10, 12, 13 and 23.

4. To the extent permitted by law, the permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

   a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

   b. At the sole discretion of the Permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

   The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing with the applicable fee six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or

permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **$3,000.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **twenty (20) annual inspections.** Inspections shall be unannounced.

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11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing and giving notice thereof to permittee, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.

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    c. All material graded shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;

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    e. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the owner of said adjacent

property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking;

f. The permittee shall provide adjacent property owners with a pile driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and the County Department of Public Works prior to the initiation of construction activities. In addition, the permittee shall conspicuously post a construction schedule along portions of the property fronting Via Marina, Marquesas Way, Dell Avenue and Via Dulce10 days in advance of any construction activities. The schedule shall also include information where individuals may register questions, concerns or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems;

g. All project-related truck hauling shall be restricted to a route approved by the Director of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services;

h. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:

   i. Configure construction parking to minimize traffic interference;

   ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person);

iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works;

iv. Consolidate truck deliveries when possible;

v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site;

vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD for daily forecasts;

vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director;

viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices; and

ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.

i. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works and the LEA, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:

i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more);

ii. Replace ground cover in disturbed areas as quickly as possible;

iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications;

iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded;

v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available);

vi. Install wheel washers where vehicles enter and exit unpaved areas onto paved roads, or wash off trucks and any equipment leaving the site each trip; and

vii. Apply water three times daily or chemical soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.

j. All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles; and

k. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.

28. The permittee shall be in compliance with the attached Mitigation Monitoring Plan.

29. This grant shall not be effective until the permittee submits a plan for parking management and on-site circulation to the satisfaction of the Director on Planning and Public Works.

30. The permittee shall provide a minimum of 1,088 parking spaces consisting of 742 standard, 328 compact spaces and 18 handicapped spaces. Five-hundred and fourteen (514) of said parking spaces shall be configured as tandem parking. The use of said parking spaces for storage is expressly prohibited.

31. ADA compliant sidewalks and driveways shall be constructed per the Department of Public Works satisfaction.

32. The use of the subject property shall be further subject to all of the following restrictions:

a. The permittee shall maintain a management staff to reside on-site and be available to respond to any issues seven (7) days per week, 24 hours per day;

b. The permittee shall post signage on the subject property providing a telephone number for the reporting of any problems associated with said apartment;

c. Outdoor storage and the repair of automobiles shall be prohibited;

d. The permittee shall monitor landscaping on a monthly basis and replace vegetation as needed.

33. The aforementioned conditions shall run with the land and shall be binding on all lessees and sublessees of Parcel 100 and 101.

Attachment:
Mitigation Monitoring Plan

RJF 12-6-06

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl AICP
Director of Planning

December 13, 2006

TO: Pat Modugno, Chair
Esther Valadez, Commissioner
Wayne Rew, Commissioner
Harold Helsley, Commissioner
Leslie G. Bellamy, Commissioner

FROM: Russell J. Fricano, Ph.D., AICP
Zoning Permits II

SUBJECT: COASTAL DEVELOPMENT PERMIT NO. 200500002-(4)
PARKING PERMIT NO. 200500004
VARIANCE NO. 200500004
Del Rey Shores
Agenda Item No. 9: December 13, 2006 Hearing Date

On December 6, 2006 staff submitted the draft Findings and Conditions relating to the above-referenced project. Following this submittal staff notes the following changes to provide further clarification and reflect updated information. These are listed as follows:

Findings

21

H. Direct Traffic Mitigation: The Environmental Impact Report recommends localized widening of Lincoln Boulevard and the ~~addition~~ installation of a northbound, right-turn-only lane on Mindanao Way~~.~~, consistent with the improvement for this intersection as identified in the Marina del Rey Specific Plan Transportation Improvement Plan (TIP).

I. Mitigation of Cumulative Impacts of the Subregional Traffic System: The Environmental Impact Report also recommended that the applicant pay a Traffic Mitigation Fee that funds cumulative impact mitigation, and to pay its fair share of certain transportation improvements at intersections that are not wholly controlled by the County should the County and the other jurisdictions agree on a funding mechanism.

62. Staff received letters and e-mail in opposition to the request, with concerns about height and visual impacts, excessive density, increased traffic congestion, noise, traffic safety, impacts on local character, inadequate

parking, impacts on local schools and hospitals, potential overcrowding of the proposed units, accuracy of the environmental document and objections to the original in-lieu fee request. Concerns were also expressed regarding the proposed grading, provision of a fire safety plan, compliance with the Mello Act and the county reviews of pending projects in consistency with the Marina del Rey LCP. Another request was made to postpone the decision on the project until the county had addressed California Coastal Commission comments in its periodic review of the Marina del Rey LCP. Most opposition letters had addresses on Via ~~Dulce~~ Dolce, located within the city of Los Angeles.

67.

H. Traffic/Access: The project would generate approximately 1,354 net new trips per day. Prior to mitigation the project would generate a significant traffic impact to the intersection of Lincoln Boulevard and Mindanao Way. The MMP requires payment of the traffic mitigation fee pursuant to the Marina del Rey TIP for local and regional improvements; widening of Lincoln Boulevard and the addition of a northbound, right-turn-only lane on Mindanao. The applicant would also be required to pay traffic mitigation fees that address regional traffic issues. Less than significant were determined.

Regarding the project's cumulative traffic impacts, for intersections which are wholly outside of the County's jurisdiction, or those intersections which the County may retain shared jurisdiction with the City of Los Angeles or Caltrans, mitigation measures are infeasible as these other jurisdictions have no reasonable, enforceable plans or programs sufficiently tied to the actual mitigation of the traffic impacts at issue. Therefore, in an abundance of caution, the Final Environmental Impact Report finds that, although the applicant will mitigate the Project's contribution wherever possible, cumulative impacts will remain significant at some intersections outside of the County's exclusive jurisdiction and the Project's contribution to these impacts will be cumulatively considerable. The Commission has therefore made a statement of overriding consideration in this regard.

Conditions

1. This grant authorizes a Coastal Development Permit for the demolition of an existing 202-unit apartment complex, including all structures, parking, landscaping, hardscape and other appurtenant facilities located on the subject property, and subsequent construction of a 544-unit apartment on Parcels 100 and 101 in Marina del Rey, a Parking Permit for the use of compact parking spaces and a Variance to construct and maintain signage in excess of county code requirements. This grant further requires

the permittee to provide seventeen (17) inclusionary units for very low income residents and thirty-seven (37) replacement units for moderate income residents. This grant shall be subject to all of the following conditions of approval:

1 (i) The permittee's obligations under this grant shall begin on the first date that any of the rental dwelling units of the Project to be constructed by the Lessee on the Site are approved for legal occupancy (the "Term Commencement Date"). The permittee has the right to record an affidavit with the Final Building Permit Approval (or Certificate of Occupancy) to reflect the commencement of the Term of this Agreement. This Covenant and Agreement shall expire, and all benefits and burdens associated with this Covenant and Agreement shall cease, thirty (30) years from the Term Commencement Date

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 9, ~~10~~, 12 <u>and</u> 13 ~~and 23~~.

23. <u>Prior to issuance of a building permit for the project,</u> ~~T~~<u>t</u>he permittee shall, to the satisfaction of the Director of Planning, participate in, and contribute to his fair share to, funding of the mitigation measures described in the Coastal Improvement Fund as specified in Section 22.46.1950 of Los Angeles County Code.

24. The permittee shall<u>, to the satisfaction of the Los Angeles County Fire Department, conduct site development in conformance with the approved</u> Fire Safety Plan <u>on file, such plan having been prepared</u> in accordance with Section 22.46.1180 (15) of the zoning code.

Public Works has also recommended that the following condition be added:

"The permittee shall design and construct driveways to the satisfaction of the Department of Public Works."

Mitigation Monitoring Program

Section 5.6 -1

According to The Department of Public Works, Section 5.6-1 should be corrected to indicate that $176,712 is earmarked for Category 1 transportation improvements.

RJF

Project R2005-00234-(4)
Coastal Development Permit No. 200500002-(4)
Parking Permit No. 200500004
Variance No. 200500004

Del Rey Shores

Public Comment

Mr. Rick Kuo
County of Los Angeles
Department of Regional planning
320 West Temple Street
Los Angeles, CA 90012

January 24, 2006.

Re The Shores Project, CPN. R2005-00234-(4) : Corrections

Dear Mr. Kuo,

This is a supplement to my letter of January 9, 2006. I complained about the accuracy of the Notice of Preparation in that letter, and I pointed out specific errors in the important part of the NOP that purports to explain the surrounding environment. I had trouble characterizing in a word what I was objecting too. It wasn't lying, it wasn't honest mistakes.

But since my first letter, I have read the work of the noted Princeton philosopher Harry G. Frankfurt "On Bullshit" published recently by the prestigious Princeton University Press. In this short work he examines the meaning of that impolite slang word. He has elevated it to a precise description of a very prevalent form of writing and discourse. Some quotes: On page 47 "For the essence of bullshit is not that it is *false* but that it is *phony* . ... This points to a fundamental aspect of bullshit: Although it is produced without concern with the truth, it need not be false, The bullshitter is faking things. But this does not mean that he necessarily gets them wrong."

On p. 53 he continues: "What bullshit essentially misrepresents is neither the state of affairs to which it refers nor the beliefs of the speaker concerning that state of affairs. Those are what lies misrepresent, by virtue of being false. Since bullshit need not be false, it differs from lies in its misrepresentational intent. The bullshitter may not deceive us, or even intend to do so, either about the facts or what he takes the facts to be. What he does necessarily attempt to deceive us about is his enterprise."

Frankfurt continues to draw a distinction between lying and bullshitting and on p. 56 he writes: "For the bullshitter, however, all these bets are off: he is neither on the side of the true nor on the side of the false. His eye is not on the facts at all, as the eye of the honest man and of the liar are, except insofar as they may be pertinent to his interest in getting away with what he says. He does not care whether the things he says describe reality correctly. he just picks them out, or makes them up, to suit his purpose."

Now some of this disregard of the truth is probably responsible for the check marks in the No boxes found

on page 24 in section 4, Population /Housing/Employment/Recreation.

I am referring to questions **c** and **d**. Question c asks: Could the project displace existing housing, especially affordable housing? Now 202 units will be destroyed. At least one tenant is having trouble finding comparably priced housing. And at a recent meeting of the tenants with the management, the tenants were informed that their rents were lower than everybody else in the neighborhood.
So **c** should be checked yes, then **d** should be at least a Maybe, and maybe **f** should be a Maybe assuming 202 units contains a *substantial* number of displaced people.
So the conclusion box should be checked Potentially significant instead of Less than significant/No impact.

Also, given the numbers of large projects planned or being built in the Marina, giving a No significant impact to the question: "Could the project have a significant impact(individually or cumulatively)?" reveals a misuse of the word **cumulatively.**

On page 25 MANDATORY FINDINGS OF SIGNIFICANCE

Question **a** was checked NO. I would like to suggest a fact which may be relevant to this question. Surrounding Building K are six large California Sycamore trees. Humming birds like to nest in Sycamore trees. These birds pay us visits from time to time flying in from del Rey Shores to our condos' Eucalyptus trees. The Sycamore trees are slated for destruction, and my guess is the humming birds will leave the area.

Due to the inaccurate description in the NOP of the surrounding area of the Project, I am submitting a Google satellite map of the surroundings with the number of stories of the larger nearby buildings of 4 or more stories. Also there is a Google hybrid map showing the same area with the street names given to help orient you as to the location of the project, etc.

CONCLUSION

Surprisingly for me, what upsets me the most is not the prospect of enduring two years of noise and dirt of the construction and the loss of the sun on my porch and the drop of property values and the disappearance of the humming birds and the increased traffic. It is the Bullshit of the anonymous authors of the NOP. The unconcern with the facts that professor Frankfurt pointed out so well. The certain knowledge that besides the piddling errors I could find, that on more important issues which I couldn't respond to, such as traffic and sewage and flooding and methane gas, that the same unconcern for the truth would pollute those issues also.

I find it insulting that such a shoddy piece of work should set in motion all those committees of the planning commission, all those civil servants trying to make

sense of the document. It should be insulting to the Department of Regional Planning. It seems to imply that one can write anything he wants. That nobody will read the stuff critically. I can just here the defense of the author: "Well everybody puts bullshit in their NOP" just as in the sinage argument, "well everybody does it". If that's the case, the cumulative effect is to suggest that the commission is really not doing its job. I suggest that you require an the developer to produce a new NOP without any bullshit.

Sincerely

Professor Daniel H. Gottlieb

LEGAL AID FOUNDATION OF LOS ANGELES

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January 24, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, Western Center on Law & Poverty (WCLP), in opposition to the request to allow payment of fees in-lieu of providing affordable housing units at Del Rey Shores.

LAFLA, WCLP and POWER are intimately familiar with the State's Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council. et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in plaintiffs' favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with plaintiffs' counsel in 2001 and adopted the Interim Administrative Procedures for Complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One particular case involved a proposed 298 unit development in the Marina Del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 very low-income apartment units or 27 very low-income condominium units, despite the fact that the developer had the additional expense of a $5 million access road. Importantly, Trammell Crow was able to meet its on-site affordable housing obligations at this development without taking advantage of a density bonus.

I. The State Mello Act Requires Replacement of Affordable Units that are Demolished in the Coastal Zone. The County Must Determine Whether any Low or Moderate Income Households Currently Reside at the Existing Development.

The Mello Act prohibits the conversion or demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." Gov't Code 65590(b). At Del Rey Shores, the developer is proposing to demolish a 202-unit apartment complex. However, the staff report does not contain any discussion regarding the economic status of the current residents. If low or moderate-income households currently reside in any of the 202 currently existing units, those units must be replaced. The Mello Act provides that: "Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.*

The Regional Planning Commission cannot approve demolition of the 202 units currently located at the site of the proposed development without first determining whether any of these households are of low or moderate-income. To do otherwise would violate the Mello Act's replacement housing requirement.

II. The State Mello Act Does Not Allow Developers to Pay In-lieu Fees for Inclusionary Units unless it is Infeasible to Provide Even One Affordable Unit On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . . " CA Gov't Code Sec. 65590(d) (emphasis added). Pursuant to the Mello Act, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

While the Mello Act specifically contemplates in-lieu fees for replacement units, it does not do so for inclusionary units. With respect to replacement units, the Mello Act provides:

> The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished units is feasible, in which event replacement dwelling units shall be required:
>
> The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subsection.

CA Gov't Code Sec. 65590(b) and (b)(4).

The Mello Act does not contain a similar provision regarding in-lieu fees for inclusionary units. The Mello Act, therefore, does not allow in-lieu fees for inclusionary units unless it is infeasible for the developer to provide even one affordable unit on or off-site. The County's Affordable Housing Policy violates the Mello Act, as it allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible. The developer's request to pay an Affordable Housing In-Lieu Fee for Del Rey Shores should be denied, as it is feasible for the developer to provide 50 affordable units on-site as is discussed in Section III below.

III. If the County Reduces its Ground Lease Rent by 52%, as Provided for in the County's Affordable Housing Policy, it is Feasible for the Developer to Include 50 Affordable Units On-Site at the Proposed Development.

As is discussed below, by using a more accurate methodology in analyzing feasibility, including 10% affordable units on-site is feasible. However, even when one uses the methodology and the 8% threshold used by KMA, simply reducing the number of affordable units to 9.2% (or 50 units) and reducing the ground lease to the level allowed in the County's Policy results in a feasible project.

The County has determined that a reduction in the ground lease of 53% or more would be infeasible for the County. Policy at p. 11. This means that it is feasible for the County to collect 48% of the ground lease rate. As KMA's Table 1 shows, the ground lease payment is currently set at 10.5% of the net rental income. Therefore, an acceptable ground lease rate is 5.04% of the net rental income (48% of 10.5%). As shown in KMA's Table 1, the net rental income is $15,675,100. Therefore, the County can feasible reduce the ground lease to $790,025.

As KMA indicates in Table 2, the developer could feasible include 10% affordable units on-site if the County reduced the ground lease payment to 4.4% of the net rental income or to $689,700. However, as noted above, the County considers infeasible a rate below 5.04% of the net rental

income. Comparing the feasible ground lease rate of $790,025 with $689,700 results in a difference of $100,325 year in lease payments.

Based on Table KMA's Table 1, the market rate unit rents average $32,900/year in rent (to be adjusted for 5% vacancies) ($16,087,900 divided by 489 units). The affordable units average $7120 ($391,600 divided by 55 units). We can calculate the increase the developer would get for switching one of the 55 affordable units to market rate by multiplying 95% with the average market rate rent minus the average affordable unit rent. In other words, each switch equals (.95)($32,900) - $7120 = $24,135/year. A switch of five affordable units produces $120,675 – more than sufficient to make up the $100,325 gap. Therefore, inclusion of 50 affordable units on-site is feasible.

IV. The Developer has not Adequately Studied the Feasibility of Providing Affordable Units Off-site.

Another important reason to not allow the developer to pay an in-lieu fee is that such a fee would not satisfy the state Mello Act requirements. The Policy allows a developer to pay an in-lieu fee where the inclusion of on-site affordable units is not feasible. However, for new developments, the Mello Act mandates that, where it is not feasible to provide the affordable units on-site, "the local government *shall* require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof." Therefore, before a developer is permitted to pay any in-lieu fee under the Policy, it must first show that it is not feasible to provide affordable units on-site *or* off-site.

In this case, although KMA discusses the developer's obligation to determine if off-site units are feasible, KMA merely mentions an informal study that is three years old to conclude that off-site units are not feasible. Because it is the developer's obligation to show that off-site units are not feasible, the developer must undertake further analysis regarding this matter.

V. The Developer Misunderstands the Purpose of the Mello Act and Miscalculates the Number of Affordable Units that can be Built Off-site with a $3.8 Million In-Lieu Fee.

In its In-Lieu Fee Application dated Nov. 17, 2005, the developer alleges that it should be allowed to pay an in-lieu fee because the fee can be leveraged to provide a greater number of housing units elsewhere within the County. This argument runs counter to the *entire* purpose of the Mello Act, which is to prevent the coastal zone and surrounding areas from becoming gentrified. The Mello Act is not about getting the most bang-for-your-buck, but instead about ensuring that coastal areas are inhabited by those with varied incomes.

Moreover, the developer grossly miscalculated the number of affordable units that could be provided off-site with a $3.8 million in-lieu fee. Contrary to the developer's contention that $3.8 million would create 63 off-site affordable units, such an in-lieu fee would actually only create

17-18 units of off-site affordable housing. The developer inappropriately inflated the number of units that could be created with an in-lieu fee by assuming that it would be combined and leveraged with other public funding sources (e.g., tax credits, bond financing, etc).

The developer was wrong to calculate the benefits of the in-lieu fee in combination with other funding sources for two reasons. First, in-lieu fees in and of themselves should be sufficient to create an entire affordable unit. According to a study commissioned by the City of Los Angeles regarding the Mello Act, HR&A (the City's consultant) estimated that the total in-lieu subsidy required for a low-income unit in the coastal area at about $215,000. Therefore, an in-lieu fee of $3.8 million would only provide 17-18 affordable units. Even if the County used the in-lieu fee to build off-site affordable units outside the coastal zone, the County would not be able to build 50 affordable units as is feasible if the developer constructs the affordable units on-site. Second, the developer states many times in its in-lieu-fee application that tax credits, public bond financing and other public revenues are very competitive and difficult to obtain. Assuming this is true, the developer should not assume that the County could easily leverage its in-lieu fee.

VI. The Developer's Feasibility Analysis Relies on Incorrect Assumptions and Flawed Methodologies to Reach Erroneous Conclusions about the Feasibility of Mello Act Compliance

The developer submitted an in-lieu fee application dated November 17, 2005 alleging that it is infeasible to provide affordable units on-site. However, our independent financial analysis reveals that 10% on-site affordable housing is, in fact, feasible at the project. In our work with the City of Los Angeles, we have provided numerous submissions regarding feasibility standards. Dr. Neil Mayer of Neil Mayer and Associates, an expert in the real estate development field, has reviewed the developer's analysis and the County's Policy. His independent analysis concludes that the developer's study relies on flawed assumptions and ignores important factors related to feasibility. Dr. Mayer has also concluded that County's Policy should be revised using alternative methodologies and thresholds. (The resume of Dr. Mayer is included as Attachment A).

A. Density Bonus

The developer's analysis of the feasibility of on-site affordable units assumes no density bonus will be allowed. This means that each inclusionary unit added means one market rate unit is eliminated, along with the profit and value it generates. But a density bonus is allowable by state law for a project that includes on-site affordable units. The bonus is extremely valuable because, in essence, it allows adding market rate condos at no additional land cost. The developer argues that it cannot take advantage of the density bonus because the County rejected its original plan to build a 780-unit project. However, adding 55 additional units to the currently proposed 544-unit complex equals 599 units. The developer has provided no analysis as to why a 599-unit complex is not feasible, especially given the State Density law which entitles the developer to a density bonus. Gov't Code § 65915 *et seq*. Because such an analysis has not been provided, the request to pay in-lieu fees must be denied, as the County's Mello Act Affordable Housing Policy requires such an analysis.

B. Threshold

Use of a more accurate rate of return standard allows for full on-site Mello Act compliance. As noted above, KMA uses the feasibility threshold of 8% return on total development cost (NOI/TDC). Even if one agrees to a feasibility standard based on unleveraged return on total development cost, 8% is too high of a threshold. KMA calculated its 8% threshold by starting with a 6.5% rate for standard apartment projects. KMA then adjusts the rate upward by 150 basis points, to 8.0%, to compensate (1) for the fact that the project can expect less appreciation than a fully market rate project, because some units are rent restricted, and (2) for the fact that the land will be leased for less than 60 years, not owned fee simple by the developer.

The 150 basis points adjustment far exceeds what is justified by the conditions of the project at hand. A more accurate adjustment would be less than 20 basis points, yielding a return on development cost of 6.5% + 0.2% = 6.7%. Using a feasibility cut off of 6.7% makes the project highly feasible even with a 10.5% lease rate and 10% affordable units.

There are two reasons for a smaller adjustment. First, consider the appreciation issue. KMA assert (p.2) that a project with **100%** affordable units have return requirements that are 100 basis points higher than market rate because of limited potential for appreciation. But The Shores will only be 10% affordable. The 90% market rate units can be expected to provide roughly 90% of the appreciation of a fully market rate project, simply because 90% of the units can obtain increased rents in the market as in the fully market rate project. Thus the appreciation-related adjustment for this project should be only 10% of 100 basis points, or 10 basis points.

Second, consider the lease issue. KMA states that the project will have a lease term of less than 60 years. The disadvantage of a ground lease in-lieu of fee simple ownership is that the developer (or some future owner of the improvements) may not be able to obtain the potential net income that would accrue after the lease expires. Suppose we assume the extreme case that the developer in this case receives no further income or capital payment for the apartments after 60 years. Although apartments of this nature usually do not exist for more than 60 years, to be conservative, we compare the 60-year stream of net operating income received in the leasing case with 100 years of revenue in the land ownership case. We computed the present value of the 60 year stream of fixed NOI and compared it with that of the 100 year stream, using a discount rate of 8% (KMA's rate of expected return on real estate projects). The 60 year leasehold yields a present value that is 99% of the 100 year level. That percentage falls only very slightly if the land ownership project is assumed to last even longer than 100 years. Thus the developer should seek a 1% higher return rate for a project with a 60 year lease, at the most. Even assuming the 1% is 1% of an 8% base return, this is only 8 basis points.

Based on the two points above, a good estimate of the premium for a 10% affordable land lease project would be about 18 (10 + 8) basis points, or a little more if the lease is a little shorter than 60 years. Therefore, the feasibility threshold should be 6.7%.

KMA, in their Table 1, find that The Shores project with 10% low-income units and a full 10.5% land lease rate yields a 7.3% return on cost. This substantially exceeds the 6.7% figure and clearly indicates feasibility for the project. The 7.3% figure would allow for an 80 basis point adjustment for the project's specifics, while still keeping the project feasible—four times what we calculate as economically necessary.

In fact, we need only reduce the KMA adjustment for appreciation and leasing by a tiny amount, from 50 to 143 basis points, to make the project feasible at a reduced land lease rate (to the required 48%). Even if one disagrees with our 18-basis point computation[1], it is easy to see that a minor reduction in KMA's assumption by at least 7 points is more than warranted.

C. Methodology

The feasibility measure that KMA applies (and which is referred to in County Policy) is an incomplete and inferior way to measure feasibility and leads to an inappropriately high rate of return as a feasibility standard. KMA uses NOI/TDC as its return measure, neglecting the appreciation real developers expect in addition to annual income and neglecting the borrowing that real developers use to finance much of their project costs. The superior way of assessing return on an apartment development is to do a two step analysis:

- To value the structure as if it were being sold shortly after stabilized occupancy, based on its current income and the capitalization rate that reflects the market's assessment of the value of the income stream, and then
- To assess profitability in terms of the profit gained by the excess of sales value over total development cost, compared to the funds actually invested by the developer (equity, not borrowed funds).

The 8% NOI/TDC standard that KMA uses as a feasibility cut-off translates into a 70-80% return on invested equity at sale. This is far more than necessary to encourage developers to invest and further evidences that 8% is much too high a cut-off. As we have already noted, a small reduction in cut-off standard to 7.3% makes the project feasible at the full County lease rate and Mello 10% requirement.

VII. There is no Evidence to Support the Developer's Contention that Providing Affordable Units On-Site Would Reduce County Services to Low-income Residents.

The developer provides no evidence to support its contention that a reduction in the rent it pays to the County would result in a reduction in services to low-income residents. Although on-site housing may require a reduction in rent paid to the County, there is no reason to believe that the County would use this as a basis to reduce services to low-income residents.

[1] For example, one might argue that inflation increases the basis point.

Moreover, it is quite paternalistic of the developer to allege, as it does in its in-lieu fee application, that lower income residents of LA County will be better served by payment of an in-lieu fee for the Shores. Our Client, POWER, is a community based organization in the Marina Del Rey/Venice area whose members are primarily low-income residents of those neighborhoods. POWER has consistently taken the position that creating on-site affordable housing units at coastal developments is more important than obtaining an in-lieu fee that could create more units off-site. POWER understands that the purpose of the Mello Act is to ensure that beach communities are enjoyed by those with varied incomes. POWER, accordingly, takes issue with the developer's allegations regarding what is best for its members.

VIII. Conclusion

For the reasons set forth above, the Commission should: (1) continue any decision regarding demolition of the currently existing building until an analysis of the incomes of the current residents has been completed to determine if any of them are of low or moderate-income; and (2) deny the developer's application for an in-lieu fee because provision of affordable units on-site is feasible.

Thank you for your consideration of this letter.

Sincerely,

Susanne Browne
Attorney at Law

Attachment

ATTACHMENT A

NEIL S. MAYER
Neil Mayer & Associates
1309 Solano Ave., Suite B
Berkeley, CA 94706
(510) 528-1071

EDUCATION:

PhD, Economics, University of California, Berkeley.

B.A., Economics, Harvard University.

EXPERIENCE:

Principal Professional Positions

President, Neil Mayer and Associates, January 1981 to present.

Undertake housing, economic development, and community development projects that focus on benefiting low-income people, as consultant to private and public sector clients. Projects in areas of research, policy analysis, program development and design, evaluation, and technical assistance and implementation.

Senior Project Manager, Center for Community Change, January 1995 to December 2001.

Projects examining locally generated economic development initiatives that are targeted to serve low-income people and communities by increasing their access to economic opportunity in the wider economy. Technical assistance to community-based organizations carrying out the initiatives.

Director of Community Development, City of Berkeley, CA, January 1991 to January 1995.

Directed staff of 74 in shaping and carrying out all City projects and programs in economic development, housing, community development, and energy. Emphases on expanding opportunities for people in need, while generating resources for community development and other municipal functions.

Assistant City Manager for Economic Development, City of Berkeley, CA, October 1985 to January 1991.

Established new Office as its first director. Overall responsibility for conceptual and program development, management, and hiring and supervision of 20 staff members. Program areas included employment, business assistance, neighborhood revitalization, development impact fees and negotiation, and energy conservation.

Senior Research Associate, The Urban Institute, Washington, D.C., 1977 to 1985.

Responsible for design, conduct, and management of major studies and program development projects in the fields of economic and community development and housing. Emphases on issues of community-based economic development, neighborhood

revitalization, housing rehabilitation and housing costs, and the effectiveness of neighborhood organizations in carrying out housing and economic development projects.

National Science Foundation Resident Scientist, 1980 to 1982.

Analyzed the impacts of growth and revitalization in the housing and broader economic markets in Berkeley, California. Emphasis on how low- and moderate-income people can participate in the benefits of that revitalization.

Economist, Human Resources and Community Development Division, Congressional Budget Office, Washington, D.C., 1975 to 1977.

Responsible for evaluation of budget issues and options in fields of housing, community development, and aid to state and local government -- with emphasis on housing finance and homeownership problems and policies. Activities included research, policy and program analysis, preparation of budget issue papers, and Congressional briefings.

Staff Economist, David Dornbusch and Company, San Francisco, California, 1972.

Conducted research on the economic and environmental impacts of intensive high-rise building development in San Francisco, under HUD research contract.

Teaching

Guest Lecturer in U.C. Berkeley courses in Economics and City and Regional Planning, 1972 to 1975 and 1981 to present.

Subjects included: strategies for local economic development, possibilities of local government assistance for rehabilitation and new construction of housing, the economics of rent control, the role of neighborhood organizations in community development, community participation in master planning.

Trainer in community development, 1996 (continuing), for local government officials, as contractor to HUD.

Lecturer on citizen participation in economic development planning, Czech Republic and Slovakia, 1994.

Related Professional Experience

Member, Local Initiatives Support Corp Advisory Board for Northern California, 1987 to present.

Chair, Bay Area Housing Support Collaborative, 1991 to 1997.

Editorial Advisory Board member, Journal of the American Planning Association, 1988.

Presentations to audiences including Local Initiatives Support Corporation, Local Self-Government Conference in Czech and Slovak Republics, FNMA, National Conference for Urban Economic Development, MIT International Symposium on Neighborhood Policy, American Real Estate and Urban Economics Association.

Expert witness, suits regarding the constitutionality of rent control legislation.

Technical advisor (volunteer) to non-profit community development corporation.

Member of Advisory Task Force on Research in Community Development, AAAS, 1978.

Member of five-person City of Berkeley Housing Conservation Task Force, 1974 to 1975. Task Force was responsible for presenting to the City Council a plan for city-wide municipally-assisted housing rehabilitation.

Chair (1971 to 1973) and member (1973 to 1975), City of Berkeley Housing Committee. Committee was responsible for preparing Housing Element of the Master Plan.

Planning Commissioner, City of Berkeley Planning Commission, 1971 to 1973.

PUBLICATIONS and REPORTS:

"Labor Market Analysis for the Los Angeles County Health Care System," for the Los Angeles Healthcare Workforce Development Program, 2004.

"Revitalizing Neighborhoods through Decentralized Action: the Minneapolis Neighborhood Revitalization Program," 2003.

"Education and Training for Community Developers," for the Ford Foundation, 2003.

"Economic Clusters and Equity," for Ford Foundation/Regional Technologies conference, 2002.

"Local Government's Role in Community Revitalization," with Langley Keyes, for the National Community Development Initiative consortium, 2001.

"Building CDC Capacity in Philadelphia," for the Pew Charitable Trusts,2000.

"Evaluation of the Minneapolis Neighborhood Revitalization Program," with Renee Berger et. al., 2000.

"Assessment of the Neighborhood Improvement Initiative (year 2)," with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1999.

"Saving and Creating Jobs: A Study of Industrial Retention and Expansion Programs," U.S. Department of Housing and Urban Development, 1998.

"Strengthening Rural Economies: A Sector Approach," with Alan Okagaki and Kris Palmer, U.S. Department of Housing and Urban Development, 1998.

"Providing Employment Opportunities for People in Need: The Berkeley Experience," for the James Irvine Foundation, 1997.

"Rowing the Boat with Two Oars," with Steve Callahan et. al., NFG Reports (newsletter of the Neighborhood Funders Group), 1998.

"Assessment of the Neighborhood Improvement Initiative (year 1), with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1997.

"HUD's First 30 Years: Big Steps Down a Longer Road," Cityscape, Vol. 1, Number 3, September 1995.

"Portland Housing and Community Development: Observations and Recommendations," for the City of Portland Bureau of Housing and Community Development, October 1996.

"Options for Area-Focused Grant Making," for the David and Lucile Packard Foundation, October 1996.

"Preserving the Low-Income Housing Stock: What Non-Profit Organizations Can Do Today and Tomorrow," Housing Policy Debate, Vol. II, Issue II, 1991.

"The Role of Non-Profits in Renewed Federal Housing Efforts," in DiPasquale and Keyes ed., Building Foundations. U. Penn. Press, 1990.

"Berkeley's City Hall Is 'First Source' When Employers Need Workers" and "'Responsible Development' In Berkeley's Durkee Project Also Means Jobs," Western Cities. October, 1989.

"A Strategy for Progressive Economic Development in Berkeley," Planners Network Newsletter, April, 1989.

"Flexible Linkage in Berkeley: Development Mitigation Fees," with Bill Lambert in Arthur C. Nelson, ed., Development Impact Fees, Planners Press, The American Planning Association, Chicago, 1988.

"Taking Another Look at CDC Performance and Potential," Community Development Research Center, New School for Social Research, March, 1987.

"Roles for Progressive Planners in Community-Based Development," in Barry Checkoway, ed., Strategic Perspectives on Planning Practice, Lexington Books, 1986.

"Future Directions for Neighborhood Organizations," the Charles Stewart Mott Foundation, November, 1986.

"Credit Mechanisms in Community Upgrading in Egypt," The Urban Institute, October, 1985.

"The Role of Lending, Race, and Ownership in Rental Housing Rehabilitation," Journal of Urban Economics, May, 1985.

"Obtaining Benefits from Private Development," for City of Berkeley, 1985.

"Action Recommendations for Berkeley Economic Development," with Lenny Goldberg, for the City of Berkeley, 1985.

Neighborhood Organizations and Community Development, the Urban Institute Press, December, 1984.

"Mobile Home Parks Under Rent Stabilization," City of Los Angeles, May, 1985.

"Conserving Rental Housing: A Policy Analysis," Journal of the American Planning Association, Summer, 1984.

"Community Development Block Grants," The Urban Institute, 1984.

"Housing and Community Upgrading for Low-Income Egyptians," with others, U.S. AID, October, 1984.

"A Strategy for Community-Based Economic Development," Presentation to Mayor's Conference on Economic Development, June, 1983.

Federal Housing Policy at President Reagan's Midterm, with Raymond Struyk and John Tuccillo, The Urban institute Press, 1983.

"How Neighborhood Organizations Succeed and Grow," in Clay and Hollister ed., Neighborhood Policy and Planning, D.C. Heath, 1983.

"An Evaluation of the William and Flora Hewlett Foundation Program in Community Development," Parts I and II, reports to the Foundation, 1983.

"Rehabilitation Decisions in Rental Housing: An Empirical Analysis," Journal of Urban Economics, July, 1981, reprinted in David Listokin, Housing Rehabilitation: Economic, Social, and Policy Perspectives.

"Project Performance by Neighborhood Development Organizations," The Urban Institute, December, 1982.

"Neighborhood Development Organizations: Why Their Projects Succeed or Fail and How They Grow in the Process," The Urban Institute, August, 1982.

"Who is Doing Neighborhood-Based Development: Projects, Skills, Resources, and Limitations," The Urban Institute, May, 1982.

"Building Neighborhood Organization Capabilities in Community Development," with Jennifer Blake, The Journal of Community Action, July, 1982.

"Market Study for a Community-Based Energy Business," April, 1982.

Keys to the Growth of Neighborhood Development Organizations, The Urban Institute Press, July, 1981.

"The Berkeley Economy: The Prospects for Economic Development Planning" (with Ann Markusen, et al.), U.C. Berkeley Institute of Urban and Regional Development, July, 1981.

"Federal Home Repair Programs and Elderly Homeowner's Needs" (with Olson Lee), The Gerontologist, January, 1981.

"Grants, Loans, and Housing Repair for the Elderly," Journal of the American Planners Association, January, 1981.

"Helping the Elderly Repair their Homes," HUD Challenge, September, 1980.

"The Growth and Effectiveness of Neighborhood Development Organizations," paper presented to Urban Institute Board of Trustees, April, 1980.

"The Effectiveness of Federal Home Repair and Improvement Programs in Meeting Elderly Homeowner Needs" (with Olson Lee), Urban Institute Report 1283-1, 1979.

"Factors in the success of Neighborhood Organizations in Community Development: Interim Report," The Urban Institute, 1979.

"Constructing Longitudinal Data Files of Quarterly Residential Alteration and Repair Activity with Illustrative Computations" (with Jack Goodman), Urban Institute Report, 1132-2, 1979.

"Landlord Housing Rehabilitation Decisions," paper presented to the American Real Estate and Urban Economics Association meeting, 1978.

"Design of a Study of Displacement in Neighborhoods Undergoing Private Revitalization" (with Margaret Drury), Urban Institute Report, 1978.

"Determinants of Landlord Housing Rehabilitation Decisions: Empirical Analysis and Policy Evaluation," Ph.D. Dissertation, January, 1978.

"Housing Occupancy Costs: Current Problems and Means to Relieve Them," Urban Institute Report 263-1, 1977.

"Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles," Congressional Budget Office Report, 1976.

"Housing Finance: Federal Programs and Issues," Congressional Budget Office Report, 1976.

"Housing Prices in a Limited Construction Competitive Market," working paper, U.C. Berkeley Economics Department, 1973.

"Impact of Intensive High-Rise Development in San Francisco, California," David Dornbusch and Company contract Report to HUD, 1972.

"Perspective in the Assessment of Large Scale Technology: The Case of the STOL Aircraft System," U.C. Berkeley, Institute of Governmental Studies report to NASA, 1971.

Del Rey Shores Revised Parking Estimates

	Original	**Revised**
One Bedroom Units	271 units	273 units
Two Bedroom Units	273 units	271 units
Standard Spaces	925 spaces	721 spaces
Compact Spaces	189 spaces	367 spaces
Total Spaces	1,114	1,088 spaces
Guest Parking	136	136 spaces
Tandem Parking	378 stalls	468 stalls

#7

VAN WERT, INC.

Land Use & Entitlement Consulting

January 25, 2006

HAND DELIVERED

Regional Planning Commission
County of Los Angeles
Hall of Records, Room 150
320 West Temple Street
Los Angeles, California 90012

File #707044

Re: The Shores Project-Marina Del Rey R2005-00234-(4)

Dear Commissioners:

The Commission, at its January 25th hearing, will consider the redevelopment of the Del Rey Shores property (Parcels 100 & 101) in Marina Del Rey. Reconstruction of the site and the provision of 544 new apartment units (the "Project") is a welcome addition to Phase II development in the Marina. The purpose of this letter is to comment on the Draft Environmental Impact Report (the "DEIR") for the Project.

I have been asked by the lessee of the Esprit development (Parcels 12 & 15) across Via Marina from the Project site, to review the DEIR and provide advice on potential impacts or effects of the Project. Phase I of the Esprit development (Parcel 12) is currently under construction. I have been unable to complete the assignment because the DEIR fails to incorporate key information. Specifically, Section 5.9-1 Sewer Service is based on "the Sewer Capacity Report prepared by PSOMAS, February 2005."[1] I have reviewed both the DEIR and the Volume II Appendices and the cited sewer capacity report is not included. I cannot properly review and provide informed comments to the Commission on this section of the DEIR, without the background material on which its conclusions are based. Also Volume II, Appendix 5.9 of the DEIR contains a cover page from a separate report titled "Sewer Area Study" dated August 2, 2005. I can assume this is an updated version of the cited report however, the actual study isn't provided, and further, the cover page seems to suggest that the Sewer Service Section of the DEIR is based on an outdated study. This causes one to speculate whether the updated information might affect conclusions in the DEIR with respect to capacity or suggested mitigation measures. Quoting the Notice of Preparation (the "NOP") for the DEIR; "a full analysis of sewer line capacity from the project site to sewer trunk lines is necessary to adequately evaluate system capacity. The following analysis would be incorporated into the proposed EIR to adequately address potential project and cumulative impacts...."[2] This DEIR fails to respond to this mandate from the NOP. Further, the

1 The Shores Project, Draft Environmental Impact Report Volume 1, page 5.9-1.
2 The Shores Project DEIR Volume II-Appendices Appendix 2.0(A) page 14.

515 South Figueroa Street, 7th Floor • Los Angeles, California 90071
(213) 955-5632 • Cell (310) 850-5675 • Fax (213) 620-8816 • rvanwert@allenmatkins.com

Marina Del Rey Specific Plan[3] requires that "(d)ocumentation shall be submitted which shows that sufficient...sewer system and waste treatment capacity exists or will exist" for new development. While the title page and review stamp from the report are certainly welcome information, I believe these two pages fall short of the intent of the ordinance and CEQA requirements with respect to documentation and that the full text of the report is required.

Infrastructure capacity, (roadways, drainage, sewers & water) is of paramount importance in the Marina, because each of these systems is dependent upon and integrated with regional systems over which the County and developers have limited control. In the subject instance, the County has contracted with and utilizes City of Los Angeles sewer facilities. The DEIR must include the "Sewer Area Study" to provide adequate information describing the Project-specific and cumulative impacts of this Project on regional sewer system capacity.

Therefore, I request the Commission consider continuing this case for 60 days to permit the recirculation of the DEIR with the appropriate sewer study reports included, along with an explanation of any revisions between the cited report used for drafting the DEIR and the updated report noted in the Appendices.

I appreciate the Commission's consideration of this request and look forward to the opportunity to review an adequate DEIR with appropriate infrastructure mitigation measures. The Shores Project will have a positive affect on the quality and character of Marina development. The Project deserves the Commission support and should receive the necessary entitlements to allow the construction of this new apartment complex as soon as possible.

Very truly yours,

ROGER K. VAN WERT, PRESIDENT
VAN WERT, INC.

Cc: Hartl
Ring
Koutnik
Fricano
Hafetz
Clark

3 The Los Angeles County Code Section 22.46.1180 (14).

#7

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: T-4

November 3, 2005

Mr. Ron Hirsch
Crain & Associates
2007 Sawtelle Boulevard, Suite 4
Los Angeles, CA 90025

Dear Mr. Hirsch:

DEL REY SHORES

We have reviewed your letter dated September 27, 2005, regarding the cumulative traffic impact mitigation issues as described in the August 2005 traffic study for the proposed Del Rey Shores project. Our conclusions regarding the traffic impacts as set forth in the traffic study for Del Rey Shores are as indicated below.

The traffic generated by the project alone and/or cumulatively with other related projects will exceed the significance threshold as defined in our Traffic Impact Analysis Report Guidelines at the following five intersections within Marina del Rey. We agree with the traffic study that mitigation measures which are identified will fully mitigate the direct and cumulative impacts to these five intersections. The project shall pay its pro-rata share of the Marina Del Rey Local Coastal Plan (MDR LCP) transportation mitigation fee of $631,590 for 111 estimated p.m. peak-hour trips of which $176,712 will go toward the Category I transportation improvements and the remaining $454,878 will go toward the Category III transportation improvements.

- Admiralty Way at Via Marina
- Admiralty Way at Palawan Way
- Admiralty Way at Mindanao Way
- Lincoln Boulevard at Fiji Way
- Lincoln Boulevard at Mindanao Way

file copy

In addition, the traffic generated by the project alone and/or cumulatively with other related projects will exceed the significance threshold as defined in our Traffic Impact Analysis Report Guidelines at the following intersections which are outside of Marina del Rey.

Via Marina/Ocean Avenue at Washington Boulevard

No feasible physical improvement has been identified to directly mitigate this intersection; however, the following improvements to the adjacent intersection of Washington Boulevard at Palawan Way will mitigate the impacted intersection to a level of insignificance.

The northbound approach on Palawan Way at Washington Boulevard will be reconstructed to allow for dual northbound left-turn lanes onto westbound Washington Boulevard instead of a right-turn lane. Install a new traffic signal and, as necessary, modify the traffic signal at the intersection of Admiralty Way at Palawan Way. The project's pro-rata share of these improvements is 13 percent which is $39,650 based on the total improvement cost estimated at $305,000. Please note, this cost estimate is contingent on review by the City of Los Angeles.

Marina Expressway (SR-90) Eastbound at Mindanao Way

This intersection is within the shared jurisdiction of the City of Los Angeles and the California Department of Transportation. The proposed mitigation measure is to add a second left-turn lane in the east approach on Mindanao Way. Please ensure that you contact and document your communication with these agencies regarding this measure.

Lincoln Boulevard/Washington Boulevard

No feasible physical improvement has been identified for this intersection. As identified in the traffic study, the volume to capacity (V/C) level for this intersection will be 1.096 post-project. Therefore, the cumulative impact exceeds the threshold identified in our Traffic Impact Analysis Report Guidelines, although the V/C does not exceed the level of service identified in the MDR LCP. The project's share of this cumulative impact is 8.5 percent.

The traffic study shall be submitted to the cities of Culver City and Los Angeles, as well as the State of California Department of Transportation for their review of any potential California Environmental Quality Act impacts within their respective jurisdictions.

MDR LCP Compliance

The project is within the Marina del Rey Local Coastal Plan. The project, as well as the identified related projects within the Marina, is well within the MDR LCP potential development entitlement of 2,750 p.m. peak-hour trips. The proposed project is within the development zone (DZ) 12 and is consistent with the development potential identified in the current MDR Land Use Plan.

If you have any questions regarding any of the above, please contact Mr. James Chon of our Land Development Review Section at (626) 300-4721.

Very truly yours,

DONALD L. WOLFE
Director of Public Works

William Winter

WILLIAM J. WINTER
Assistant Deputy Director
Traffic and Lighting Division

CN JHC:rj
P:\tpub\WPFILES\LAND DEVELOPMENT REVIEW\James\Shores\drs1.doc

cc: Caltrans (Cheryl Powell)
City of Culver City (Charles Herbertson)
City of Los Angeles (Jay Kim)
County Counsel (Tom Faughnan)
Department of Beaches and Harbors (Kerry Silverstrom, Barry Kurtz)
Department of Regional Planning (Sam Dea, Daryl Koutnik)

#7

Law Offices of
RICHARD I. FINE & ASSOCIATES
468 North Camden Drive, Suite 200
Beverly Hills, California 90210
Telephone: (310) 277-5833
Facsimile: (310) 277-1543
January 20, 2006

Mr. Rick Kuo
County of Los Angeles Department of Regional Planning
320 West Temple Street
Room 1348
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004

Dear Mr. Kuo:

This office represents the Marina Strand Colony II Homeowners Association who are residents of a sixty eight unit condominium complex situated directly west of the Shores Project (Project) across Dell Avenue, a private alley.

RECOMMENDATION

To enable the Regional Planning Commission to make a fair evaluation of the Project, based upon the review of the California Coastal Commission's Marina del Rey Periodic LCP Review dated May 25, 2005 (LCP Review) which demonstrates that the 1996 amendments to the LCP did not comply with the Coastal Act and the deficiencies in the EIR dated November, 2005, it is recommended that the Regional Planning Commission either:

(1) delay the decision on the Project until the County of Los Angeles (County) implements all of the recommendations in the LCP Review and then require a new EIR to be prepared consistent with the new LCP;

(2) require a new EIR to be prepared consistent with the current recommendations of the LCP Review and to correct the deficiencies set forth herein and by others; or

(3) suspend consideration all permits due to the fact that the 2812 cap on peak pm trips established by the 1996 amendment to the LCP has been exceeded and under the terms of the LCP no new development can occur.

By following the Recommendation herein, the Regional Planning Commission will fulfill the mandate of CEQA and require an EIR containing all the information necessary for a governmental body to make a judgment.

DESCRIPTION OF THE PROJECT

The Project comprises 8.31 acres on Parcels 100 and 101 in Marina del Rey. The Project is a proposed 544 residential unit complex consisting of twelve buildings, ten of which are connected as "one building" circumventing the perimeter of the property. The buildings front Via Marina, Marquesas Way, and Dell Avenue (a private alley).

The site is ten (10) to fifteen (15) feet above sea level. Forty thousand (40,000) cubic yards of earth will be moved on site which may raise the level of the site. The buildings will rise seventy five (75) feet above the ground and roof top equipment, parapets and architectural features will rise another twenty five (25) feet to one hundred (100) feet above ground level. This will be a total height of at least one hundred fifteen (115) feet above sea level. Marina del Rey is at sea level as is most of the property surrounding the project.

The Project is located on the west side of Via Marina, the north side of Marquesas Way, the east side of Dell Avenue (a private alley), and the south side of Admiralty Loop at the intersection of Via Marina and Panay Way. The Project along with Archstone and Oakwood, its apartment complex neighbors to the north are County "interlopers" in the City of Los Angeles single family home and condominium low rise residential area known as the Marina Peninsula. Marina Peninsula extends west from Via Marina to the ocean and south from Washington Boulevard to the Main Channel of the Marina.

The Project is bounded on the immediate south by a low rise town house condominium complex, on the immediate west by a low rise town house condominium complex, on the immediate north by Archstone apartments, consisting of low rise garden apartments and one high rise tower and on the east by Via Marina (a four lane street), a low rise apartment complex and Basin C of the Marina harbor.

The Project is directly west and across Via Marina from Basin C. The Project can be seen by a person standing at the northwest end of Burton Chase Park and looking west through Basin C.

All of the surrounding area from Via Marina west to the ocean is single family residential homes or low rise condominiums with the exception of the Archstone apartment complex to the immediate north and the Oakwood low rise apartment complex on Via Marina

at Admiralty Way and Washington Boulevard.

The Project will be the second tallest building west of Via Marina. The tallest is the Archstone tower which was built in the 1970s.

East of Via Marina is the Marina proper, with its basins.

The Project does not have any provisions for public recreation, public use, parking for the public using the Marina or Marina visitor purposes.

The Project will be the most massive structure in the area. By its massive design and height, the Project will stand out as would a prison in a residential neighborhood.

AS OF JANUARY, 2005, THE DESIGN CONTROL BOARD WAS MADE AWARE OF THE DENSITY AND TRAFFIC PROBLEMS WITH THE PROJECT

At the Design Control Board meeting in January 20, 2005, Dr. David De Lang of the Coalition to Save the Marina objected to the Project on the grounds of the density and the traffic impact and suggested that the Design Control Board wait until the LCP Review was completed, before voting on such.

The LCP Review was completed on May 25, 2005.

THE LCP REVIEW REQUIRES THAT THE EIR BE REDONE TO CONFORM TO THE COASTAL ACT

The LCP Review refers to Coastal Act section 30519.5 which requires review of the LCP at least every five years at page 11:

> Section 30519.5 of the Coastal Act requires the Commission to conduct a Periodic Review of a government's Local Coastal Program at least once every five years. The basic purpose of the review is to determine whether the LCP is being effectively implemented in conformity with policies of the Coastal Act. Section 30519.5 states: *(a) The commission shall, from time to time, but at least once every five years after certification, review every certified Local Coastal Program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified Local Coastal Program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the*

affected local government's Local Coastal Program.
(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.
In addition, under provisions of Section 30501 of the Coastal Act, the Commission may recommend specific uses of more than local importance for consideration by any local government for inclusion in its Local Coastal Program. Thus, the Coastal Act requires that the Commission assure that the ongoing implementation of a certified Local Coastal Program is effectively meeting the statewide policy goals of the Coastal Act.
Purpose and Objectives of a Periodic LCP Review
Monitoring, reviewing and updating a certified LCP is a critical component of effective coastal management. When the Commission reviews a project on appeal, the standard of review is consistency with the certified LCP and in some cases Coastal Act access policies. It is therefore very important that certified LCPs are continually monitored for effectiveness and periodically reviewed and updated in order for the LCP to continue to function as an effective standard for sound coastal resource management decision making.

In the case of *Coalition to Save the Marina v. Coastal Commission*, LASC Case No. NS 008613 (2001), a settlement occurred which required the LCP to be reviewed. The Coastal Act requires the recommendations to be followed. The LCP Review stated at page 12:

The Marina del Rey LCP was not among the first priorities adopted by the Commission in 1998 for undertaking Periodic Reviews; this Periodic Review was initiated as a result of a settlement of litigation in *Coalition to Save the Marina, Inc. v. Coastal Commission* (LA Superior Court Case No. NS008613 (2001).

Notes on the Recommendations
Pursuant to Section 30519.5 of the Coastal Act, results of the Periodic Review analysis are recommendations to the County for corrective actions that should be taken in order to ensure continued implementation of the LCP in conformity with the policies of the Coastal Act.

The LCP Review stated at page 5:

The Preliminary Report identifies the areas where the implementation of the LCP is not in conformity with the Coastal Act. But overall, many of the issues raised and a large number of the recommendations are a result of finding that **the LCP needs to be revised to reflect new information or changed conditions in order to ensure the LCP is implemented in conformity with policies of the Coastal Act.** (Emphasis added.)

The LCP Review stated at page 7 as to New Development/Circulation:

New Development/Circulation
The LCP allows relatively high densities and heights and includes policies to 1) limit development to the capacity of the transportation network and 2) require all developers to pay a fair and reasonable share of the cost of both local and subregional traffic improvements. The County has carried out these policies, collecting $4,402,248 in transportation mitigation fees, which are committed to a variety of transportation improvement projects in the area. However, the model on which this is based was derived from a model devised to analyze the traffic impacts of the Playa Vista development. **The model assumes both more development and more roads in neighboring Playa Vista than are now likely. The County should update its transportation model.**

In order to mitigate the impacts of higher densities, the LCP incorporates a design review process. The County has implemented measurable setback and view corridor standards but due to some internal inconsistencies in its ordinances, has not carried out qualitative design review that is anticipated in the LUP. Measures designed to mitigate the designation of about a third of the Marina's land area for non-priority residential use, by allowing voluntary incorporation of visitor-serving facilities have not worked. The County needs to consider other methods to bring more visitor serving uses to the Marina. **Finally, many proposed projects, including those proposed in the Asset Management Strategy, a policy analysis adopted by the Board of Supervisors to revitalize the Marina, require LCP amendments. Analyzed piecemeal, the changes could result in unanticipated negative impacts. The County should submit a comprehensive update, reflecting its new thinking on visitor-serving uses, public recreation, and design so that the Commission can evaluate these plans for their consistency with the Coastal Act.** (Emphasis added.)

The Notice of Preparation shows that a "Potentially Significant Impact" occurs in every category, in eleven of the twenty one factors, including Geotechnical, Flood, Noise, Water Quality, Air Quality, Visual Qualities, Traffic/Access, Sewage Disposal, Utilities,

Environmental Safety, and Mandatory Findings.

THE EIR DOES NOT ADDRESS THE REQUIREMENTS OF LOS ANGELES COUNTY BUILDING CODE SECTIONS 110.3 AND 110.4

The EIR does not address the requirements of Los Angeles County Building Code sections 110.3 and 110.4 which state as follows:

> **110.3 Fills Containing Decomposable Material.** Permits shall not be issued for buildings or structures regulated by this Code within 1,000 feet (304.8 m) of **fills containing rubbish or other decomposable material unless the fill is isolated by approved natural or artificial protective systems or unless designed according to the recommendation contained in a report prepared by a licensed civil engineer.** Such report shall contain a description of the investigation, study and recommendation to minimize the possible intrusion, and to prevent the accumulation of explosive concentrations of decomposition gases within or under enclosed portions of such building or structure. At the time of the final inspection, the civil engineer shall furnish a signed statement attesting that the building or structure has been constructed in accordance with the civil engineer's recommendations as to decomposition gases required herein.
>
> Buildings or structures regulated by this Code shall not be constructed on fills containing rubbish or other decomposable material unless provision is made to prevent damage to structure, floors, underground piping and utilities due to uneven settlement of the fill. One-story light-frame accessory structures not exceeding 400 square feet (37.2 m^2) in area nor 12 feet (3658 mm) in height may be constructed without special provision for foundation stability. (Ord. 95-0065 § 3 (part), 1995.)
>
> **110.4 Methane Gas Hazards.** Permits shall not be issued for buildings or structures regulated by this Code on, adjacent to, or within 25 feet (7.62 m) of active, abandoned or idle oil or gas well(s) unless designed according to recommendations contained in a report prepared by a licensed civil engineer and approved by the Building Official. In addition, permits shall not be issued for a building or structure regulated by this Code located **between 25 feet (7.62 m) and 200 feet (60.96 m) from active, abandoned or idle oil or gas well(s) unless designed according to the recommendations contained in a report prepared by a licensed civil engineer and approved by the Building Official or all active, abandoned or idle oil or gas well(s) between 25 feet (7.62 m) and 200 feet (60.96 m) from said building or structure are examined by a licensed petroleum engineer to evaluate whether, in accordance with the current rules and regulations of the Division of Oil and Gas of the State of California, such wells are being properly operated or maintained, or are abandoned. No permits shall be**

> **issued until certification of proper operation, maintenance, or abandonment or reabandonment, as determined by the Division of Oil and Gas, is submitted to the Building Official.** This requirement is not applicable to active, abandoned or idle oil or gas well(s) located more than 200 feet (60.96 m) from the proposed buildings or structures.
>
> As used in this Section, "well" shall mean any well as defined by Section 3008, Subdivisions (a) and (b) of the California Public Resources Code. (Ord. 95-0065 § 3 (part), 1995.) (Emphasis added.)

The EIR does not show that a study was performed relating to "fill" which existed in the vicinity of the Marina City Club parcel, which may be within 1,000 feet of the northeast end of the Project and which fill may have expanded into the water under the Project and became part of the fill originally used in the site of the Project.

The EIR does not show that certification has occurred as to the abandoned oil wells near the Project. The August 9, 2005 Department of Conservation Letter has identified two oil wells which are plugged or abandoned which may be on the property. This issue has not been addressed in the EIR. The re abandonment of those wells may have to occur.

Additionally, no tests were made on the soil for toxic elements. Section 4.2.3 of the EIR states that the upper ten to fifteen feet of the Project site consists of fill dredged from the Ballona wetlands during construction of the small craft harbor. The section does not state that tests were done on the soil for toxins.

THE EIR DID NOT FULLY INVESTIGATE THE POSSIBILITY OF METHANE GAS FROM THE SOUTHERN CALIFORNIA GAS STORAGE SITE UNDER THE PROJECT

Section 4.2.4 of the EIR identifies the Project as being above the Southern California Gas underground storage site for natural gas which is operated in the oil field below the Project. The section states that Southern California Gas Company operates a large natural gas storage, processing and transmission facility south and southeast of Marina del Rey and that such facility has created the potential for subsurface migration of methane gas. The May 12, 2005 Soil Gas Survey Letter Report shows that testing only went five to ten feet below ground surface and above the water table.

The Report did show that in 1988, petroleum hydrocarbon odors were found at 17-22 feet below ground.

The EIR at 5.1.3.3.6 stated that strong hydrocarbon odors were noted from soil samples well below grade.

THE EIR DEALT WITH LIQUEFACTION TO 5.5g OR A 7.3 EARTHQUAKE; GIVEN RECENT HISTORY AND PREDICTIONS OF AN 8.0 EARTHQUAKE, FURTHER STUDIES SHOULD BE MADE TO SAVE LIVES

Even though the statutes do not require studies above 5.5g, given predictions of an 8.0 earthquake, the EIR should research this possibility and develop mitigation factors to save lives.

THE EIR DOES NOT FULLY DISCUSS THE EFFECTS OF NOISE

The EIR does not discuss the noise from approximately 2000 automobile trips per day on Dell avenue and the effect of equipment such as fans and air conditioning equipment, trash trucks and generators.

THE EIR DID NOT FULLY ADDRESS THE CHANGE IN WIND

The EIR March 30, 2005 RWDI wind study is fatally flawed. First, wind from the east is irrelevant as the Project is west of Basin C. Basins B and D would not be affected by the Project as they are not directly affected by the Project. The major effect is on Basin C with a wind coming from the west. Wind from the south, southeast and southwest by their direction would not have a major effect.

The wind study did not disclose various wind speeds from the west and the effect of the Project on Basin C. The best that can be discerned from the vague language of the wind study is that the Project does have an effect on the west and southwest wind in Basin C.

THE EIR DOES NOT ADDRESS THE EFFECT ON AIR QUALITY ON DELL AVENUE DUE TO APPROXIMATELY 2000 AUTO TRIPS A DAY

The EIR does not discuss the effect on the air quality of approximately 2000 auto trips per day on Dell Avenue, which will be bounded by a one hundred foot wall which will prevent any movement of air.

The EIR also does not discuss the effect of the project on the wind at Dell Avenue and its affect on dirt, dust and smog.

THE EIR ADMITS THAT THE PROJECT IS NOT COMPATIBLE WITH THE IMMEDIATE AREA

The EIR states at 5.5:

> The height and mass of proposed structures are not in character with existing uses proximal to the project site to the south and west.

The EIR avoids the fact that the Project is the most massive structure west of Via Marina and north of the main channel of the Marina. It stands as a "prison" in the midst of a residential neighborhood dominating the area.

The EIR does not address the fact that the Project will promote "blight" on Dell Avenue which will be placed into darkness for most of the day as it is in the shadow of the 115 foot wall of the Project.

At present no new building of the mass of the Project has been approved in Marina del Rey. Any "high rise" other than the Archstone tower, is far away and east of Via Marina.

THE EIR DOES NOT CORRECTLY ADDRESS THE TRAFFIC IMPACTS OF DEVELOPMENT AND PROPOSED DEVELOPMENT IN THE AREA AND DOES NOT EXTEND TO THE YEAR 2025

The EIR states that Lincoln Boulevard, south of the Marina Freeway has traffic of approximately 35,000 vehicles per day (VPD), Admiralty Way near Via Marina has traffic of approximately 18,000 VPD and Via Marina, south of Admiralty Way has traffic of approximately 14,000 VPD. The EIR states that no bus route passes by the Project.

The EIR stated at Crain & Associates Traffic Analysis, page 54 that the Marina LUP and TIP allowed 2750 new pm peak hour trips for the Marina.

The EIR is in direct contrast to the LCP Review. The two are incompatible.

The LCP Review at Exhibit 7 Figure 2-37 states that Lincoln Boulevard north of the Marina Freeway has traffic of approximately 67,000 VPD. This is a difference of 32,000 VPD from the EIR. Figure 2-38 shows that at the peak pm hour **1300 vehicles enter Lincoln Boulevard to travel southbound and 1880 vehicles enter Lincoln Boulevard to travel northbound. This is a total of 3180 pm peak hour trips.**

The LCP Review stated at page 30 that the LCP established a cap for traffic which limited development:

> It established a total cap of **2,812 evening peak-hour trips for the Marina** and required contributions by developers to mitigate the impacts of their development to traffic improvements inside the Marina and to the subregional transportation system outside the Marina proper. The total number of units authorized under the base zoning of the LCP exceeded the number of units that the traffic system could accommodate or that the traffic limits would allow, even with mitigation. The LCP explicitly included this first-come, first-served strategy to encourage re-development of the Marina. **Therefore, the revised LCP does not guarantee that zoning of a certain density, on any given parcel, would allow development at that density.** In certifying the revised LCP, the Commission approved greater heights as long as view corridors were provided, and required wide, publicly accessible walkways along the bulkhead of the entire Marina. (Emphasis added.)

The LCP Review at Exhibit 7, Figure 2-43, also stated that the projected growth of the Marina and the area by the year 2010 would increase evening peak hour traffic on Lincoln Boulevard according to LADOT studies by 90-100% south of Culver Drive or double the

current volume, 26-29% near Marina del Rey and SR-90, and 11-17% north of Washington Boulevard.

In contrast, the EIR stated at Crain & Associates Traffic Analysis, page 29 that traffic would increase by .6% by the year 2009. The EIR did not translate its data into percentage increases at particular intersections based upon numbers that could be compared to the LCP Review for the added projects.

The EIR however, also stated at Crain & Associates Traffic Analysis, page iii:

> County acknowledges that traffic growth within the project vicinity has outpaced the projections upon which the TIP trip fees were based,...

The letter from Captain Mary Campbell of the Sheriff's Department dated August 12, 2005 stated at page 3 that traffic on Lincoln Boulevard and Washington Boulevard are "gridlocked through much of the day" and will be "negatively impacted".

Finally the EIR does not extend to the year 2025 as set forth in the August 15, 2005 letter of the California Department of Transportation.

THE EIR IS MISLEADING IN THAT IT DOES NOT HIGHLIGHT THE TOTAL NUMBER OF AM AND PM PEAK HOUR TRIPS FROM THE PROJECT AND DOES NOT SHOW THE IMPACT ON DELL AVENUE

The basis for the amount of daily trips from the Project was a 1991 study. This study is out of date. Based on this study and a 1997 study, **1354 net new daily trips, 120 net new am** peak hour trips and **111 net new** pm peak hour trips were projected. The EIR stated at Crain & Associates Traffic Analysis, page 22 that the actual number of trips were as follows: **daily trips-2154, am peak hour trips-190, and pm peak hour trips-177. This is a difference of 800 daily trips, 70 am peak hour trips and 66 pm peak hour trips respectively.**

The most important effect of the traffic is on Dell Avenue where three of the six exits of the proposed Project exist. Dell Avenue is a private alley. Under the plan of the Project, it will become a major roadway with approximately 2000 trips per day. This must be studied

before a decision can be made.

The letter from Captain Mary Campbell of the Sheriff's Department dated August 12, 2005 stated at page 3 that traffic from the Project would "triple".

THE EIR DOES NOT ADDRESS THE NEED FOR FURTHER LAW ENFORCEMENT

The letter from Captain Mary Campbell of the Sheriff's Department dated August 12, 2005 stated at page 2-3 states that the Project will increase the population of Marina del Rey by 8-10% or more and in conjunction with other development place a significant strain and burden on the Sheriff's Department and its resources which will require additional staffing.

The letter states at page 4 that the Department of Beaches and Harbors has informed it that within the next five to ten years 1654 additional apartments and 788 hotel rooms are proposed.

THE EIR ADMITS THAT NO FACILITIES EXIST FOR SOLID WASTE AFTER 2017, FACILITIES FOR SOLID AND HAZARDOUS WASTE ARE INADEQUATE AND THE APPLICANT HAS NOT MADE ANY ARRANGEMENTS FOR WASTE DISPOSAL

The EIR admits that no facilities exist for solid waste after 2017 and facilities for solid and hazardous waste are inadequate. The applicant has not arranged contracts for the waste disposal.

THE EIR ADMITS THAT SUFFICIENT PIPELINES DO NOT PRESENTLY EXIST TO SUPPLY THE PROJECT

The EIR admits that sufficient pipelines do not presently exist to supply the Project. The Applicant has not made arrangements to construct the line.

THE EIR DOES NOT ADDRESS THE CUMULATIVE AMOUNT OF SEWAGE PRESENTLY SCHEDULED TO "GO ON LINE" AND WHETHER THE COLLECTION LINE MUST IMMEDIATELY BE IMPROVED

The EIR does not discuss the cumulative amount of sewage presently scheduled to "go on line" and whether the collection line must immediately be improved. Unless this question is answered, the answer to the question of whether sewage can be disposed cannot be answered.

THE EIR IS WRONG WHEN IT CLAIMS THE PROJECT WILL PROVIDE MORE MONEY TO THE COUNTY WHEN COMPARED TO THE AMOUNT THE APPLICANT SHOULD NOW BE PAYING TO THE COUNTY

The EIR claims that a benefit of the Project will be more income to the County under the Lease. This is not correct. At present, the Applicant should be paying the County 8 to 9% per year of a land value of $60.00 to $62.00 per square foot according to County documents valuing the land which is the 8.31 acre site of the Project. This would not change if the Project were built. If the Applicant is presently not paying the aforementioned amount of money, the Applicant is underpaying the County.

The County should have collected a significant fee for the 39 year lease extension. The Applicant does not disclose if it paid any such fee.

The County will not collect any property tax on the land as the County owns the land. It may collect a tax on the value of the building. The County will not collect any other taxes or fees.

The return on investment to the Applicant should be limited to 10 to 10.5% of its investment after payment of expenses, according to County documents.

In essence, the development will not render an economic windfall to the County.

THE EIR SHOULD DISCUSS THE ALTERNATIVE OF A SMALLER PROJECT WHICH CONFORMS TO THE RECOMMENDATIONS IN LCP REVIEW

The Applicant has not discussed the alternative of a smaller project extending fifty to sixty feet above ground with subterranean parking. This project will probably fit with the new LCP after a new LCP is approved in conformity with the LCP Review.

CONCLUSION

The present application comes before the Regional Planning Commission at a time when the Coastal Commission has now spoken on the 1996 amendment to the LCP. The County's AMS is now in question and unfettered development will not be allowed. Violations of the Coastal Act will not be allowed. Development above the 2812 VPD traffic cap will not be allowed.

In the instant application, the LCP Review indicates that the Project will not succeed either under the present LCP or under a new LCP. Further even if the LCP Review did not exist, the EIR is deficient in every category having not provided sufficient facts for a government body to make a judgment.

The Recommendation herein presents various options which allow the Commission to fulfill its legal obligations and allows the Applicant to conform to the LCP Review.

We thank the Commission for the opportunity to present these views.

Sincerely,

Law Offices of Richard I. Fine & Associates

By:_____
Richard I. Fine

21806wpd/t7a

Project No. R2005-00234 (Del Rey Shores)

Dear Dr. Fricano:

The purpose of this comment is to address the issue of the sidewalk abutting the proposed project along Via Marina. The documents I have reviewed indicate the sidewalk will remain 48" wide, even after development has been completed. The sidewalk, however, is of substandard width and inconsistent with the Marina del Rey Specific Plan.

Between the curb along Via Marina and the retaining wall along the inside edge of the sidewalk, the maximum width is 48", and where there are obstructions from light poles, sign posts, and a traffic control box, the usable width varies between 36" and 38". The sidewalk abuts a 6 lane thoroughfare where traffic frequently travels at excessive speeds reaching 50 mph or more.

In contrast, the sidewalk on the same block, along Marquesas Way and Via Dolce, beginning at the intersection of Via Marina and Marquesas Way, is 83"-85" in width, and a parking lane on the street serves as a buffer between pedestrians and vehicular traffic.

Pedestrians using the sidewalk along Via Marina enjoy no such buffer and are crowded between the street (where there is high speed traffic) and a retaining wall and other obstruction that can be as close a 36" from the curb.

The Via Marina sidewalk is a old problem and a result of poor planning. Now, with the proposed project, there is an opportunity to correct the problem so that the sidewalk is consistent with the Marina del Rey Specific Plan (MDRSP).

The circulation element of the MDSRSP at 22.46.1100 secttion "A" emphasizes the importance of the pedestrian system:

"A. The circulation system is the single most important infrastructure component in the Specific Plan Area: It is comprised of the following:

. . . .

--Pedestrian promenades and walkways."

And walkways must be "handicap accessible." (See 22.46.1100.B.2.b)

At 22.46.1050, the MDRSP restates the importance of walkways and sets forth standards of "safety and compatibility":

"The walkways and bicycle trails are a primary means for access to activities in the Marina. Design of these elements with safety and compatibility in mind is of utmost importance in facilitating public use and enjoyment of the Marina. All walkways must be accessible to the physically impaired."

It is convincingly clear from the attached 3 photographs that the existing sidewalk is inconsistent with the circulation element of the MDRSP, and if the proposed project will also be inconsistent with the specific plan if it is developed without remedying the situation along Via Marina.

Therefore, approval of any project should require the developer to install a sidewalk of a suitably safe width that is compatible with its proximity to a busy thoroughfare. I would suggest a width of 10' to 12' with appropriate landscaping to enhance the enjoyment of both pedestrians and motorists.

Thank you for your consideration of these comments.

Very truly yours

JAT

JONATHAN A. TILLMAN

Attachments (3 photographs)

108
108
358
358
437
V5

M. Molina,
3862 Via Dolce
Marina Del Rey, CA 90292

January 18, 2006

Los Angeles County Department of Regional Planning
320 W. Temple Street - Rm 1348
Los Angeles, California 90012
Attn: Dr. Russell Fricano

RECEIVED
JAN 23 2006

Dear Dr. Fricano:
re: The Shore Project # R 2005-00234, State Clearinghouse # 2005 071080, Coastal Development Permit # T200500002, Variance T 200 500004 and Parking Permit T 200500004

The Notice of Intent to Certify An Environmental Impact Report for the above referenced development of The Shores Project in Marina del Rey shows that the proposed development would increase density almost threefold! The number of apartments would increase from 262 to 544. The height would increase from 45 feet to 100 feet. The number of occupants would increase from 363 to 979 and the number of vehicles would increase from about 151 to 816!!

I have been a resident of Marina del Rey for over 30 years and have chosen to live here for its clean air and charming setting. In recent years I have seen the population density greatly increase along with its attendant increase in traffic, noise and air pollution. I, therefore, must strenuously object

The Shores

To this proposed development which is, in fact, ajacent to my home in Marina Strand Colony II. My home is two stories high in keeping with this area's residential units.

Traffic in and about Marina del Rey has increased dramatically in recent years and in addition to gridlock on the streets, a recent study shows that soot air particles have also greatly increased leading to health concerns. The Shores development would add about 700 vehicles to the Marina which will also cause an increase in traffic accidents, particularly on Via Dolce since the two access driveways to Marina Strand Colony II are on a continuous curve.

Unless modified, The Shores over-development might finally kill the golden goose that has laid so many golden eggs for the County of Los Angeles. Yet, in the long run produce only a small increase in projected County revenues.

I urge a NO vote on this project as currently envisioned.

Sincerely,
Margaret Molina

Terry Planell
3782 Via Dolce
Marina Del Rey, Ca 90292
310-822-8203

RECEIVED
JAN 23 2006

January 17th, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3782 Via Dolce, Marina del Rey, CA 90292..

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant averse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for you consideration of this matter.

Sincerely,

Terry Planell

R. GORDON AND RENEE LAUGHLIN
3621 VIA DOLCE
MARINA DEL REY, CA 90292
(310) 305-0232 HM (310) 804-3823 CELL

RECEIVED
JAN 23 2006

January 19, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

We are the homeowner and property owner of record for 3621 Via Dolce, Marina del Rey, Ca 90292 and I am writing to object to the planned "The Shores Project" project #R2005-00234-(4).

This project would be located immediately east of our neighbors complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. The complex, across the street from us, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our neighbors. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant averse impacts on the residents of our area.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only on Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of the complex across from our home, and where driveway exits are located. This is a hazardous situation because the exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitor's parking at the Shores Project.

Thank you,

R. Gordon Laughlin

R. GORDON LAUGHLIN

John Harrison
1900 Avenue of the Stars, 10th floor
Los Angeles, CA 90067

1/7/06

PROJECT No. 2005-00234-(4)
Coastal Development Permit T200500002
Variance T200500004
Parking Permit T200500004

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RECEIVED
JAN 23 2006

Dear Mr.Kuo:

Yet another new project in Marina Del Rey, called the Shores Project, but this expansion is immediately adjacent to our residential area and not in the areas where only apartment buildings are presently being constructed. This intrusion will negatively impact the hundreds of taxpaying homeowners who will be hurt in so many ways from the next towering superstructures proposed by the developers in their unbridled building plan for this beautiful region.

The impact to people's homes:

The present homeowners, who have been here for decades, are comfortable living beside two to three story apartment buildings. Why must developers now build to the sky and lower the standard of living for all homeowners in the area who pay millions of dollars in taxes to their local Government who they hope will protect them and their property.

Homeowners directly facing the Shore's Project will be impacted the most. 33 family homes in the Marina Strand II Complex will now be forced to live in dark "tombs" when the massive 100 foot high buildings right next to them blot out their light, sun and sky. Who will want to live in a cavern or buy a cave? Their property values will plummet!

Simple solution:

Why must our Government make people endure this sacrifice when the solution is simple? The new apartment buildings should be built on the exact same site where most of the old apartment buildings stand - 35 feet or so back from Dell Avenue. They should be no closer to the Marina Strand II Complex and perhaps only a floor higher than the present apartment buildings. This way they will be similar to all the other complexes in the immediate vicinity except for one high rise.

The impact to traffic and parking:

The developers statement that "there is sufficient traffic capacity" is specious. 80 extra cars per hour (approximately another 700 cars) will further congest the surrounding streets in our already high traffic area.

Inadequate parking in the proposed Shores Project will force tenants to further use the already crowded streets in front of the multimillion dollar homes that line Via Dolce as well as another 33 home owners from the Marina Strand II complex who will have to endure the increased traffic noise and lack of parking. Via Dolce will become race track.

Increased traffic. Do I need to mention the totally congested 405 Freeway, the clogged Pacific Avenue and the overused 90 Freeway? And we already have hundreds of new apartments in construction that will be occupied by thousands of tenants who are unaware that their way to work is being obliterated.

Simple solution:

Build new similar sized apartment buildings that constructively manage population growth. Therefore, the negative impact on traffic and parking, which will still be present, will be contained.

Emergency services and county services (fresh water and sewerage):

Hundreds of families in Marina Del Rey rely upon existing medical, police and fire emergency services. Continued building at close to maximum occupancy will create a disproportionate number of rental units that will overtax existing emergency services and could very well be life-threatening to the present homeowners.

Need I say, if this community's need for fresh water and sewerage becomes over taxed the outcome would be catastrophic.

All our multi-million dollar homes already depreciating from the increased traffic, grid-lock, over-crowding and strain on services would be worthless.

Simple solution:

Limit the number of people who will occupy the new units to around the same number as those who occupy the present units.

The responsibility of our government:

If our Government ignores the human cost of unlimited corporate expansion and profits to the detriment of their citizens then it has forsaken its primary duty to protect everyone. This scenario shouldn't happen here. A new building project should take into consideration the families who already live and raise their children in the area especially those poor people whose homes are right next to the building site.

We have a fragile environmental balance that must include builder and homeowners. Our Government should not allow one to unduly hurt the other and should require that the builders protect that fragile balance by using the old apartment complex design as a model for their new construction.

I hope I will be able to say, "Thank you for your help."

John Harrison
Home owner in the Silver Strand

ROSE SANDRO
3511 Via Dolce
Marina Del Rey, Ca 90292
(310) 301-2521

RECEIVED
JAN 23 2006

January 18, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project # R2005-00234-0(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3511 Via Dolce, Marina Del Rey, CA 90292 and I am writing to object to the planned "The Shores Project" # R2005-00234-(4).

This project would be located immediately east of our neighbors' complex across the street from us. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. The complex, Marina Strand Colony II is comprised of town houses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our neighbors. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant adverse impacts on the residents of our area.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be a right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our home and were driveway exits are located. This is a hazardous situation because the exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from the Shores Project to exit directly onto Via Marina with a left turn allowed and/or to reduce the number of unit to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also, some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units and to insure a sufficient amount of designated visitors' and residential parking at.The Shores Project.

Thank you for your consideration of this matter.

Sincerely,

Rose Sandro

Rose Sandro

January 15, 2006

Count of Los Angeles Dept of Regional Planning

Attn: Rick Kuo

RE: The Shores Project, Project #R2005-00234

Dear Mr. Kuo:

I am a business owner on Washington Blvd. in Marina del Rey near the corner of Washington and Via Dolce. I am very disturbed at what is going on in the Marina as it relates to this project which is negatively going to impact the neighborhood. It is bad enough that there are already massive construction projects everywhere in the vicinity that are already extremely unattractive, too high and just so dense that waves of people are already causing traffic issues and totally negatively impacting the Marina.

My letter is obviously requesting that this project be stopped or reduced in size to a 3-level manageable height which will less severely impact congestion, traffic, parking, sewage, noise and the like. Take a ride around the Marina and see how the lower buildings are so much more suitable to this area, high-rises just do not work, we are a small community and don't need huge eyesores in our area adding more pollution, disrupting beautiful views of the area and hurting all of those people in the condos who will be living in the shadow of your massive construction project.

I respectfully request that you take the time to consider this request and the request of numerous others since I, as well as them, are concerned about the long term negative effects of this project in this area. I hope you will reconsider your plan and either terminate or revise it accordingly.

Thank you for your attention to this matter.

Patricia Steele
SteeleBoxer
407 Washington Blvd.
Marina del Rey, CA 90202

#7

Marina Del Rey, California
The World's Largest Small Craft Harbor

del rey shores

4201 Via Marina
Marina del Rey, California 90292
(310) 823-5384
Fax: (310) 301-1710

January 20, 2006

Board of Directors
Marina Strand Colony II Homeowners Association
Via Dolce
Marina del Rey, CA 90292

To the Board of Directors:

As a representative of the lessees of Marina del Rey Parcels 100 and 101, I want to take this opportunity to respond to the concerns raised by a number of Marina Strand Colony II homeowners in letters of opposition to the proposed *Shores* project which have been submitted to the Los Angeles County Department of Regional Planning.

First, let me state unequivocally that I would have been happy to meet with your Board and other homeowners had I known there was an interest to do so in a timely manner. To date, I have not received any direct telephone or written communication from any member of your Association Board. I only received an informal request for a meeting from one homeowner—on Thursday, January 19, 2006, six weeks after all of the homeowners received official public notice of the January 25, 2006, hearing, and, indeed, more than three weeks after the above-mentioned homeowner submitted his own letter of opposition to the project. In contrast, I have held two evening meetings, each attended by over 50 residents of Del Rey Shores, and provided periodic written updates to our residents as well during the last 15 months.

I welcome every opportunity to discuss our project, and would like to briefly address the concerns expressed in the approximately 14 letters of opposition written by Marina Strand Colony II homeowners.

Your Association members should be aware that the proposed project falls well within the parameters of development potential for the site as approved by the California Coastal Commission and the County of Los Angeles in the certified Marina del Rey Local

Coastal Program (certified LCP) in 1995. After extensive hearings and public debate, these bodies established the following parameters for redevelopment of the site:

- As many as 624 dwelling units without a density bonus, or up to 780 units with a potential density bonus;
- Building height limit of 225 feet; and,
- Traffic generation and other impacts consistent with the above-prescribed density.

In significant contrast, the proposed project calls for 544 apartments, or **13% fewer units than permissible**, with 12 buildings no more than 75 feet high. As a result, the proposed project has considerably less impact on traffic, air circulation, sunlight, and the like than the project parameters permitted in the certified LCP.

Please allow me to correct several misstatements cited repeatedly in the opposition letters to the County. First, there is an even taller building on Parcel 102, 13 stories high, immediately to the north of Del Rey Shores; so, while our proposed project is surely taller than the current apartment complex, it is considerably smaller in height than an existing building already in the vicinity of Marina Strand Colony II. Again, the certified LCP supports building heights up to 225 feet on the site, so we have been good neighbors in consciously programming the project at a significantly reduced building height.

The Draft EIR makes it quite clear that the proposed project will not affect the direct sunlight exposure of your homes. Please note that the proposed project structures are no less than 65 feet away, and as much as 84 feet away, from your eastern property lines. The one-story Del Rey Shores Personal Warehouses directly adjacent to your eastern property lines constitute a separate business and will not be affected by the proposed project. For your information, I recently toured the site with a County staff person at 12:30 PM, and we observed that at that time your development actually cast a shadow on the Personal Warehouses and the Dell Avenue alley.

Moreover, since your homes are directly to the west of the proposed project, and given that the prevailing winds blow westerly at this location off the ocean, the proposed project will not adversely affect the air circulation for your homes. This issue was also addressed in a wind study, reported in the Draft EIR, which we were required to commission as part of the environmental review process.

All of those of us who live or work in and around Marina del Rey are concerned about traffic. First, please remember that the certified LCP prescribes 80 more units for the site than we are proposing for the project, so the project's traffic generation is actually 23.4% less than the traffic conditions already approved by the Coastal Commission and the County in the certified LCP. Second, and most importantly, the proposed project calls for all resident and visitor parking to be accommodated on the project site. The County codes therefore will ensure a sufficient number of parking spaces for visitors to the project. Third, residents seeking access to Via Marina to make a left turn to go north,

east, and south of the project will continue to be able to utilize "Admiralty Loop," the existing road shared by Del Rey Shores and Archstone Apartments, to enter the intersection at the traffic light at the corner of Via Marina and Panay Way, and make a left turn as well as a right turn, just as the current residents of these complexes have been able to do for decades.

While any construction project will generate temporary unwanted noise and other inconveniences to neighbors, I can assure you that the conditions of the Coastal Development Permit will include specific provisions designed to limit the number of hours of construction, the noise generated, and other inevitable impacts—requirements which we must, and will, meet. We will be pleased to provide your Association with periodic updates on our construction activities, so you will be aware of what to expect from our work.

We are quite proud of the proposed project. We believe it will constitute an outstanding addition to the Marina del Rey community. Let me reiterate my willingness to meet with your Board and other homeowners, and provide periodic updates to you during construction to address your concerns.

Sincerely,

David O. Levine

David O. Levine
Chief of Staff to Mr. Jerry B. Epstein

Cc: Los Angeles County Regional Planning Commission

LEGAL AID FOUNDATION OF LOS ANGELES

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Writer's Direct Dial Number (213) 640-3897

sbrowne@lafla.org

January 24, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, Western Center on Law & Poverty (WCLP), in opposition to the request to allow payment of fees in-lieu of providing affordable housing units at Del Rey Shores.

LAFLA, WCLP and POWER are intimately familiar with the State's Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in plaintiffs' favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with plaintiffs' counsel in 2001 and adopted the Interim Administrative Procedures for Complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One particular case involved a proposed 298 unit development in the Marina Del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 very low-income apartment units or 27 very low-income condominium units, despite the fact that the developer had the additional expense of a $5 million access road. Importantly, Trammell Crow was able to meet its on-site affordable housing obligations at this development without taking advantage of a density bonus.

I. The State Mello Act Requires Replacement of Affordable Units that are Demolished in the Coastal Zone. The County Must Determine Whether any Low or Moderate Income Households Currently Reside at the Existing Development.

The Mello Act prohibits the conversion or demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." Gov't Code 65590(b). At Del Rey Shores, the developer is proposing to demolish a 202-unit apartment complex. However, the staff report does not contain any discussion regarding the economic status of the current residents. If low or moderate-income households currently reside in any of the 202 currently existing units, those units must be replaced. The Mello Act provides that: "Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.*

The Regional Planning Commission cannot approve demolition of the 202 units currently located at the site of the proposed development without first determining whether any of these households are of low or moderate-income. To do otherwise would violate the Mello Act's replacement housing requirement.

II. The State Mello Act Does Not Allow Developers to Pay In-lieu Fees for Inclusionary Units unless it is Infeasible to Provide Even One Affordable Unit On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . . " CA Gov't Code Sec. 65590(d) (emphasis added). Pursuant to the Mello Act, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

While the Mello Act specifically contemplates in-lieu fees for replacement units, it does not do so for inclusionary units. With respect to replacement units, the Mello Act provides:

> The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished units is feasible, in which event replacement dwelling units shall be required:
>
> The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subsection.

CA Gov't Code Sec. 65590(b) and (b)(4).

The Mello Act does not contain a similar provision regarding in-lieu fees for inclusionary units. The Mello Act, therefore, does not allow in-lieu fees for inclusionary units unless it is infeasible for the developer to provide even one affordable unit on or off-site. The County's Affordable Housing Policy violates the Mello Act, as it allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible. The developer's request to pay an Affordable Housing In-Lieu Fee for Del Rey Shores should be denied, as it is feasible for the developer to provide 50 affordable units on-site as is discussed in Section III below.

III. If the County Reduces its Ground Lease Rent by 52%, as Provided for in the County's Affordable Housing Policy, it is Feasible for the Developer to Include 50 Affordable Units On-Site at the Proposed Development.

As is discussed below, by using a more accurate methodology in analyzing feasibility, including 10% affordable units on-site is feasible. However, even when one uses the methodology and the 8% threshold used by KMA, simply reducing the number of affordable units to 9.2% (or 50 units) and reducing the ground lease to the level allowed in the County's Policy results in a feasible project.

The County has determined that a reduction in the ground lease of 53% or more would be infeasible for the County. Policy at p. 11. This means that it is feasible for the County to collect 48% of the ground lease rate. As KMA's Table 1 shows, the ground lease payment is currently set at 10.5% of the net rental income. Therefore, an acceptable ground lease rate is 5.04% of the net rental income (48% of 10.5%). As shown in KMA's Table 1, the net rental income is $15,675,100. Therefore, the County can feasible reduce the ground lease to $790,025.

As KMA indicates in Table 2, the developer could feasible include 10% affordable units on-site if the County reduced the ground lease payment to 4.4% of the net rental income or to $689,700. However, as noted above, the County considers infeasible a rate below 5.04% of the net rental

income. Comparing the feasible ground lease rate of $790,025 with $689,700 results in a difference of $100,325 year in lease payments.

Based on Table KMA's Table I, the market rate unit rents average $32,900/year in rent (to be adjusted for 5% vacancies) ($16,087,900 divided by 489 units). The affordable units average $7120 ($391,600 divided by 55 units). We can calculate the increase the developer would get for switching one of the 55 affordable units to market rate by multiplying 95% with the average market rate rent minus the average affordable unit rent. In other words, each switch equals (.95)($32,900) - $7120 = $24,135/year. A switch of five affordable units produces $120,675 – more than sufficient to make up the $100,325 gap. Therefore, inclusion of 50 affordable units on-site is feasible.

IV. The Developer has not Adequately Studied the Feasibility of Providing Affordable Units Off-site.

Another important reason to not allow the developer to pay an in-lieu fee is that such a fee would not satisfy the state Mello Act requirements. The Policy allows a developer to pay an in-lieu fee where the inclusion of on-site affordable units is not feasible. However, for new developments, the Mello Act mandates that, where it is not feasible to provide the affordable units on-site, "the local government *shall* require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof." Therefore, before a developer is permitted to pay any in-lieu fee under the Policy, it must first show that it is not feasible to provide affordable units on-site *or* off-site.

In this case, although KMA discusses the developer's obligation to determine if off-site units are feasible, KMA merely mentions an informal study that is three years old to conclude that off-site units are not feasible. Because it is the developer's obligation to show that off-site units are not feasible, the developer must undertake further analysis regarding this matter.

V. The Developer Misunderstands the Purpose of the Mello Act and Miscalculates the Number of Affordable Units that can be Built Off-site with a $3.8 Million In-Lieu Fee.

In its In-Lieu Fee Application dated Nov. 17, 2005, the developer alleges that it should be allowed to pay an in-lieu fee because the fee can be leveraged to provide a greater number of housing units elsewhere within the County. This argument runs counter to the *entire* purpose of the Mello Act, which is to prevent the coastal zone and surrounding areas from becoming gentrified. The Mello Act is not about getting the most bang-for-your-buck, but instead about ensuring that coastal areas are inhabited by those with varied incomes.

Moreover, the developer grossly miscalculated the number of affordable units that could be provided off-site with a $3.8 million in-lieu fee. Contrary to the developer's contention that $3.8 million would create 63 off-site affordable units, such an in-lieu fee would actually only create

17-18 units of off-site affordable housing. The developer inappropriately inflated the number of units that could be created with an in-lieu fee by assuming that it would be combined and leveraged with other public funding sources (e.g., tax credits, bond financing, etc).

The developer was wrong to calculate the benefits of the in-lieu fee in combination with other funding sources for two reasons. First, in-lieu fees in and of themselves should be sufficient to create an entire affordable unit. According to a study commissioned by the City of Los Angeles regarding the Mello Act, HR&A (the City's consultant) estimated that the total in-lieu subsidy required for a low-income unit in the coastal area at about $215,000. Therefore, an in-lieu fee of $3.8 million would only provide 17-18 affordable units. Even if the County used the in-lieu fee to build off-site affordable units outside the coastal zone, the County would not be able to build 50 affordable units as is feasible if the developer constructs the affordable units on-site. Second, the developer states many times in its in-lieu-fee application that tax credits, public bond financing and other public revenues are very competitive and difficult to obtain. Assuming this is true, the developer should not assume that the County could easily leverage its in-lieu fee.

VI. The Developer's Feasibility Analysis Relies on Incorrect Assumptions and Flawed Methodologies to Reach Erroneous Conclusions about the Feasibility of Mello Act Compliance

The developer submitted an in-lieu fee application dated November 17, 2005 alleging that it is infeasible to provide affordable units on-site. However, our independent financial analysis reveals that 10% on-site affordable housing is, in fact, feasible at the project. In our work with the City of Los Angeles, we have provided numerous submissions regarding feasibility standards. Dr. Neil Mayer of Neil Mayer and Associates, an expert in the real estate development field, has reviewed the developer's analysis and the County's Policy. His independent analysis concludes that the developer's study relies on flawed assumptions and ignores important factors related to feasibility. Dr. Mayer has also concluded that County's Policy should be revised using alternative methodologies and thresholds. (The resume of Dr. Mayer is included as Attachment A).

A. Density Bonus

The developer's analysis of the feasibility of on-site affordable units assumes no density bonus will be allowed. This means that each inclusionary unit added means one market rate unit is eliminated, along with the profit and value it generates. But a density bonus is allowable by state law for a project that includes on-site affordable units. The bonus is extremely valuable because, in essence, it allows adding market rate condos at no additional land cost. The developer argues that it cannot take advantage of the density bonus because the County rejected its original plan to build a 780-unit project. However, adding 55 additional units to the currently proposed 544-unit complex equals 599 units. The developer has provided no analysis as to why a 599-unit complex is not feasible, especially given the State Density law which entitles the developer to a density bonus. Gov't Code § 65915 *et seq*. Because such an analysis has not been provided, the request to pay in-lieu fees must be denied, as the County's Mello Act Affordable Housing Policy requires such an analysis.

B. Threshold

Use of a more accurate rate of return standard allows for full on-site Mello Act compliance. As noted above, KMA uses the feasibility threshold of 8% return on total development cost (NOI/TDC). Even if one agrees to a feasibility standard based on unleveraged return on total development cost, 8% is too high of a threshold. KMA calculated its 8% threshold by starting with a 6.5% rate for standard apartment projects. KMA then adjusts the rate upward by 150 basis points, to 8.0%, to compensate (1) for the fact that the project can expect less appreciation than a fully market rate project, because some units are rent restricted, and (2) for the fact that the land will be leased for less than 60 years, not owned fee simple by the developer.

The 150 basis points adjustment far exceeds what is justified by the conditions of the project at hand. A more accurate adjustment would be less than 20 basis points, yielding a return on development cost of 6.5% + 0.2% = 6.7%. Using a feasibility cut off of 6.7% makes the project highly feasible even with a 10.5% lease rate and 10% affordable units.

There are two reasons for a smaller adjustment. First, consider the appreciation issue. KMA assert (p.2) that a project with **100%** affordable units have return requirements that are 100 basis points higher than market rate because of limited potential for appreciation. But The Shores will only be 10% affordable. The 90% market rate units can be expected to provide roughly 90% of the appreciation of a fully market rate project, simply because 90% of the units can obtain increased rents in the market as in the fully market rate project. Thus the appreciation-related adjustment for this project should be only 10% of 100 basis points, or 10 basis points.

Second, consider the lease issue. KMA states that the project will have a lease term of less than 60 years. The disadvantage of a ground lease in-lieu of fee simple ownership is that the developer (or some future owner of the improvements) may not be able to obtain the potential net income that would accrue after the lease expires. Suppose we assume the extreme case that the developer in this case receives no further income or capital payment for the apartments after 60 years. Although apartments of this nature usually do not exist for more than 60 years, to be conservative, we compare the 60-year stream of net operating income received in the leasing case with 100 years of revenue in the land ownership case. We computed the present value of the 60 year stream of fixed NOI and compared it with that of the 100 year stream, using a discount rate of 8% (KMA's rate of expected return on real estate projects). The 60 year leasehold yields a present value that is 99% of the 100 year level. That percentage falls only very slightly if the land ownership project is assumed to last even longer than 100 years. Thus the developer should seek a 1% higher return rate for a project with a 60 year lease, at the most. Even assuming the 1% is 1% of an 8% base return, this is only 8 basis points.

Based on the two points above, a good estimate of the premium for a 10% affordable land lease project would be about 18 (10 + 8) basis points, or a little more if the lease is a little shorter than 60 years. Therefore, the feasibility threshold should be 6.7%.

KMA, in their Table 1, find that The Shores project with 10% low-income units and a full 10.5% land lease rate yields a 7.3% return on cost. This substantially exceeds the 6.7% figure and clearly indicates feasibility for the project. The 7.3% figure would allow for an 80 basis point adjustment for the project's specifics, while still keeping the project feasible—four times what we calculate as economically necessary.

In fact, we need only reduce the KMA adjustment for appreciation and leasing by a tiny amount, from 50 to 143 basis points, to make the project feasible at a reduced land lease rate (to the required 48%). Even if one disagrees with our 18-basis point computation[1], it is easy to see that a minor reduction in KMA's assumption by at least 7 points is more than warranted.

C. Methodology

The feasibility measure that KMA applies (and which is referred to in County Policy) is an incomplete and inferior way to measure feasibility and leads to an inappropriately high rate of return as a feasibility standard. KMA uses NOI/TDC as its return measure, neglecting the appreciation real developers expect in addition to annual income and neglecting the borrowing that real developers use to finance much of their project costs. The superior way of assessing return on an apartment development is to do a two step analysis:

- To value the structure as if it were being sold shortly after stabilized occupancy, based on its current income and the capitalization rate that reflects the market's assessment of the value of the income stream, and then
- To assess profitability in terms of the profit gained by the excess of sales value over total development cost, compared to the funds actually invested by the developer (equity, not borrowed funds).

The 8% NOI/TDC standard that KMA uses as a feasibility cut-off translates into a 70-80% return on invested equity at sale. This is far more than necessary to encourage developers to invest and further evidences that 8% is much too high a cut-off. As we have already noted, a small reduction in cut-off standard to 7.3% makes the project feasible at the full County lease rate and Mello 10% requirement.

VII. There is no Evidence to Support the Developer's Contention that Providing Affordable Units On-Site Would Reduce County Services to Low-income Residents.

The developer provides no evidence to support its contention that a reduction in the rent it pays to the County would result in a reduction in services to low-income residents. Although on-site housing may require a reduction in rent paid to the County, there is no reason to believe that the County would use this as a basis to reduce services to low-income residents.

[1] For example, one might argue that inflation increases the basis point.

Moreover, it is quite paternalistic of the developer to allege, as it does in its in-lieu fee application, that lower income residents of LA County will be better served by payment of an in-lieu fee for the Shores. Our Client, POWER, is a community based organization in the Marina Del Rey/Venice area whose members are primarily low-income residents of those neighborhoods. POWER has consistently taken the position that creating on-site affordable housing units at coastal developments is more important than obtaining an in-lieu fee that could create more units off-site. POWER understands that the purpose of the Mello Act is to ensure that beach communities are enjoyed by those with varied incomes. POWER, accordingly, takes issue with the developer's allegations regarding what is best for its members.

VIII. Conclusion

For the reasons set forth above, the Commission should: (1) continue any decision regarding demolition of the currently existing building until an analysis of the incomes of the current residents has been completed to determine if any of them are of low or moderate-income; and (2) deny the developer's application for an in-lieu fee because provision of affordable units on-site is feasible.

Thank you for your consideration of this letter.

Sincerely,

Susanne Browne
Attorney at Law

Attachment

ATTACHMENT A

NEIL S. MAYER
Neil Mayer & Associates
1309 Solano Ave., Suite B
Berkeley, CA 94706
(510) 528-1071

EDUCATION:

PhD, Economics, University of California, Berkeley.

B.A., Economics, Harvard University.

EXPERIENCE:

Principal Professional Positions

President, Neil Mayer and Associates, January 1981 to present.

Undertake housing, economic development, and community development projects that focus on benefiting low-income people, as consultant to private and public sector clients. Projects in areas of research, policy analysis, program development and design, evaluation, and technical assistance and implementation.

Senior Project Manager, Center for Community Change, January 1995 to December 2001.

Projects examining locally generated economic development initiatives that are targeted to serve low-income people and communities by increasing their access to economic opportunity in the wider economy. Technical assistance to community-based organizations carrying out the initiatives.

Director of Community Development, City of Berkeley, CA, January 1991 to January 1995.

Directed staff of 74 in shaping and carrying out all City projects and programs in economic development, housing, community development, and energy. Emphases on expanding opportunities for people in need, while generating resources for community development and other municipal functions.

Assistant City Manager for Economic Development, City of Berkeley, CA, October 1985 to January 1991.

Established new Office as its first director. Overall responsibility for conceptual and program development, management, and hiring and supervision of 20 staff members. Program areas included employment, business assistance, neighborhood revitalization, development impact fees and negotiation, and energy conservation.

Senior Research Associate, The Urban Institute, Washington, D.C., 1977 to 1985.

Responsible for design, conduct, and management of major studies and program development projects in the fields of economic and community development and housing. Emphases on issues of community-based economic development, neighborhood

revitalization, housing rehabilitation and housing costs, and the effectiveness of neighborhood organizations in carrying out housing and economic development projects.

National Science Foundation Resident Scientist, 1980 to 1982.

Analyzed the impacts of growth and revitalization in the housing and broader economic markets in Berkeley, California. Emphasis on how low- and moderate-income people can participate in the benefits of that revitalization.

Economist, Human Resources and Community Development Division, Congressional Budget Office, Washington, D.C., 1975 to 1977.

Responsible for evaluation of budget issues and options in fields of housing, community development, and aid to state and local government -- with emphasis on housing finance and homeownership problems and policies. Activities included research, policy and program analysis, preparation of budget issue papers, and Congressional briefings.

Staff Economist, David Dornbusch and Company, San Francisco, California, 1972.

Conducted research on the economic and environmental impacts of intensive high-rise building development in San Francisco, under HUD research contract.

Teaching

Guest Lecturer in U.C. Berkeley courses in Economics and City and Regional Planning, 1972 to 1975 and 1981 to present.

Subjects included: strategies for local economic development, possibilities of local government assistance for rehabilitation and new construction of housing, the economics of rent control, the role of neighborhood organizations in community development, community participation in master planning.

Trainer in community development, 1996 (continuing), for local government officials, as contractor to HUD.

Lecturer on citizen participation in economic development planning, Czech Republic and Slovakia, 1994.

Related Professional Experience

Member, Local Initiatives Support Corp Advisory Board for Northern California, 1987 to present.

Chair, Bay Area Housing Support Collaborative, 1991 to 1997.

Editorial Advisory Board member, Journal of the American Planning Association, 1988.

Presentations to audiences including Local Initiatives Support Corporation, Local Self-Government Conference in Czech and Slovak Republics, FNMA, National Conference for Urban Economic Development, MIT International Symposium on Neighborhood Policy, American Real Estate and Urban Economics Association.

Expert witness, suits regarding the constitutionality of rent control legislation.

Technical advisor (volunteer) to non-profit community development corporation.

Member of Advisory Task Force on Research in Community Development, AAAS, 1978.

Member of five-person City of Berkeley Housing Conservation Task Force, 1974 to 1975. Task Force was responsible for presenting to the City Council a plan for city-wide municipally-assisted housing rehabilitation.

Chair (1971 to 1973) and member (1973 to 1975), City of Berkeley Housing Committee. Committee was responsible for preparing Housing Element of the Master Plan.

Planning Commissioner, City of Berkeley Planning Commission, 1971 to 1973.

PUBLICATIONS and REPORTS:

"Labor Market Analysis for the Los Angeles County Health Care System," for the Los Angeles Healthcare Workforce Development Program, 2004.

"Revitalizing Neighborhoods through Decentralized Action: the Minneapolis Neighborhood Revitalization Program," 2003.

"Education and Training for Community Developers," for the Ford Foundation, 2003.

"Economic Clusters and Equity," for Ford Foundation/Regional Technologies conference, 2002.

"Local Government's Role in Community Revitalization," with Langley Keyes, for the National Community Development Initiative consortium, 2001.

"Building CDC Capacity in Philadelphia," for the Pew Charitable Trusts,2000.

"Evaluation of the Minneapolis Neighborhood Revitalization Program," with Renee Berger et. al., 2000.

"Assessment of the Neighborhood Improvement Initiative (year 2)," with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1999.

"Saving and Creating Jobs: A Study of Industrial Retention and Expansion Programs," U.S. Department of Housing and Urban Development, 1998.

"Strengthening Rural Economies: A Sector Approach," with Alan Okagaki and Kris Palmer, U.S. Department of Housing and Urban Development, 1998.

"Providing Employment Opportunities for People in Need: The Berkeley Experience," for the James Irvine Foundation, 1997.

"Rowing the Boat with Two Oars," with Steve Callahan et. al., NFG Reports (newsletter of the Neighborhood Funders Group), 1998.

"Assessment of the Neighborhood Improvement Initiative (year 1), with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1997.

"HUD's First 30 Years: Big Steps Down a Longer Road," Cityscape, Vol. 1, Number 3, September 1995.

"Portland Housing and Community Development: Observations and Recommendations," for the City of Portland Bureau of Housing and Community Development, October 1996.

"Options for Area-Focused Grant Making," for the David and Lucile Packard Foundation, October 1996.

"Preserving the Low-Income Housing Stock: What Non-Profit Organizations Can Do Today and Tomorrow," Housing Policy Debate, Vol. II, Issue II, 1991.

"The Role of Non-Profits in Renewed Federal Housing Efforts," in DiPasquale and Keyes ed., Building Foundations, U. Penn. Press, 1990.

"Berkeley's City Hall Is 'First Source' When Employers Need Workers" and "'Responsible Development' In Berkeley's Durkee Project Also Means Jobs," Western Cities, October, 1989.

"A Strategy for Progressive Economic Development in Berkeley," Planners Network Newsletter, April, 1989.

"Flexible Linkage in Berkeley: Development Mitigation Fees," with Bill Lambert in Arthur C. Nelson, ed., Development Impact Fees, Planners Press, The American Planning Association, Chicago, 1988.

"Taking Another Look at CDC Performance and Potential," Community Development Research Center, New School for Social Research, March, 1987.

"Roles for Progressive Planners in Community-Based Development," in Barry Checkoway, ed., Strategic Perspectives on Planning Practice, Lexington Books, 1986.

"Future Directions for Neighborhood Organizations," the Charles Stewart Mott Foundation, November, 1986.

"Credit Mechanisms in Community Upgrading in Egypt," The Urban Institute, October, 1985.

"The Role of Lending, Race, and Ownership in Rental Housing Rehabilitation," Journal of Urban Economics, May, 1985.

"Obtaining Benefits from Private Development," for City of Berkeley, 1985.

"Action Recommendations for Berkeley Economic Development," with Lenny Goldberg, for the City of Berkeley, 1985.

Neighborhood Organizations and Community Development, the Urban Institute Press, December, 1984.

"Mobile Home Parks Under Rent Stabilization," City of Los Angeles, May, 1985.

"Conserving Rental Housing: A Policy Analysis," Journal of the American Planning Association, Summer, 1984.

"Community Development Block Grants," The Urban Institute, 1984.

"Housing and Community Upgrading for Low-Income Egyptians," with others, U.S. AID, October, 1984.

"A Strategy for Community-Based Economic Development," Presentation to Mayor's Conference on Economic Development, June, 1983.

Federal Housing Policy at President Reagan's Midterm, with Raymond Struyk and John Tuccillo, The Urban institute Press, 1983.

"How Neighborhood Organizations Succeed and Grow," in Clay and Hollister ed., Neighborhood Policy and Planning, D.C. Heath, 1983.

"An Evaluation of the William and Flora Hewlett Foundation Program in Community Development," Parts I and II, reports to the Foundation, 1983.

"Rehabilitation Decisions in Rental Housing: An Empirical Analysis," Journal of Urban Economics, July, 1981, reprinted in David Listokin, Housing Rehabilitation: Economic, Social, and Policy Perspectives.

"Project Performance by Neighborhood Development Organizations," The Urban Institute, December, 1982.

"Neighborhood Development Organizations: Why Their Projects Succeed or Fail and How They Grow in the Process," The Urban Institute, August, 1982.

"Who is Doing Neighborhood-Based Development: Projects, Skills, Resources, and Limitations," The Urban Institute, May, 1982.

"Building Neighborhood Organization Capabilities in Community Development," with Jennifer Blake, The Journal of Community Action, July, 1982.

"Market Study for a Community-Based Energy Business," April, 1982.

Keys to the Growth of Neighborhood Development Organizations, The Urban Institute Press, July, 1981.

"The Berkeley Economy: The Prospects for Economic Development Planning" (with Ann Markusen, et al.), U.C. Berkeley Institute of Urban and Regional Development, July, 1981.

"Federal Home Repair Programs and Elderly Homeowner's Needs" (with Olson Lee), The Gerontologist, January, 1981.

"Grants, Loans, and Housing Repair for the Elderly," Journal of the American Planners Association, January, 1981.

"Helping the Elderly Repair their Homes," HUD Challenge, September, 1980.

"The Growth and Effectiveness of Neighborhood Development Organizations," paper presented to Urban Institute Board of Trustees, April, 1980.

"The Effectiveness of Federal Home Repair and Improvement Programs in Meeting Elderly Homeowner Needs" (with Olson Lee), Urban Institute Report 1283-1, 1979.

"Factors in the success of Neighborhood Organizations in Community Development: Interim Report," The Urban Institute, 1979.

"Constructing Longitudinal Data Files of Quarterly Residential Alteration and Repair Activity with Illustrative Computations" (with Jack Goodman), Urban Institute Report, 1132-2, 1979.

"Landlord Housing Rehabilitation Decisions," paper presented to the American Real Estate and Urban Economics Association meeting, 1978.

"Design of a Study of Displacement in Neighborhoods Undergoing Private Revitalization" (with Margaret Drury), Urban Institute Report, 1978.

"Determinants of Landlord Housing Rehabilitation Decisions: Empirical Analysis and Policy Evaluation," Ph.D. Dissertation, January, 1978.

"Housing Occupancy Costs: Current Problems and Means to Relieve Them," Urban Institute Report 263-1, 1977.

"Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles," Congressional Budget Office Report, 1976.

"Housing Finance: Federal Programs and Issues," Congressional Budget Office Report, 1976.

"Housing Prices in a Limited Construction Competitive Market," working paper, U.C. Berkeley Economics Department, 1973.

"Impact of Intensive High-Rise Development in San Francisco, California," David Dornbusch and Company contract Report to HUD, 1972.

"Perspective in the Assessment of Large Scale Technology: The Case of the STOL Aircraft System," U.C. Berkeley, Institute of Governmental Studies report to NASA, 1971.

Project No. R2005-00234 (Del Rey Shores)

Dear Dr. Fricano:

The purpose of this comment is to address the issue of the sidewalk abutting the proposed project along Via Marina. The documents I have reviewed indicate the sidewalk will remain 48" wide, even after development has been completed. The sidewalk, however, is of substandard width and inconsistent with the Marina del Rey Specific Plan.

Between the curb along Via Marina and the retaining wall along the inside edge of the sidewalk, the maximum width is 48", and where there are obstructions from light poles, sign posts, and a traffic control box, the usable width varies between 36" and 38". The sidewalk abuts a 6 lane thoroughfare where traffic frequently travels at excessive speeds reaching 50 mph or more.

In contrast, the sidewalk on the same block, along Marquesas Way and Via Dolce, beginning at the intersection of Via Marina and Marquesas Way, is 83"-85" in width, and a parking lane on the street serves as a buffer between pedestrians and vehicular traffic.

Pedestrians using the sidewalk along Via Marina enjoy no such buffer and are crowded between the street (where there is high speed traffic) and a retaining wall and other obstruction that can be as close a 36" from the curb.

The Via Marina sidewalk is a old problem and a result of poor planning. Now, with the proposed project, there is an opportunity to correct the problem so that the sidewalk is consistent with the Marina del Rey Specific Plan (MDRSP).

The circulation element of the MDSRSP at 22.46.1100 at sec. A emphasizes the importance of the pedestrian system:

"A. The circulation system is the single most important infrastructure component in the Specific Plan Area: It is comprised of the following:

. . . .

--Pedestrian promenades and walkways."

And walkways must be "handicap accessible." (See 22.46.1100.B.2.b)

At 22.46.1050, the MDRSP restates the importance of walkways and sets forth standards of "safety and compatibility":

"The walkways and bicycle trails are a primary means for access to activities in the Marina. Design of these elements with safety and compatibility in mind is of utmost importance in facilitating public use and enjoyment of the Marina. All walkways must be accessible to the physically impaired."

It is convincingly clear from the attached 3 photographs that the existing sidewalk is inconsistent with the circulation element of the MDRSP, and the proposed project will also be inconsistent with the specific plan if it is developed without remedying the situation along Via Marina.

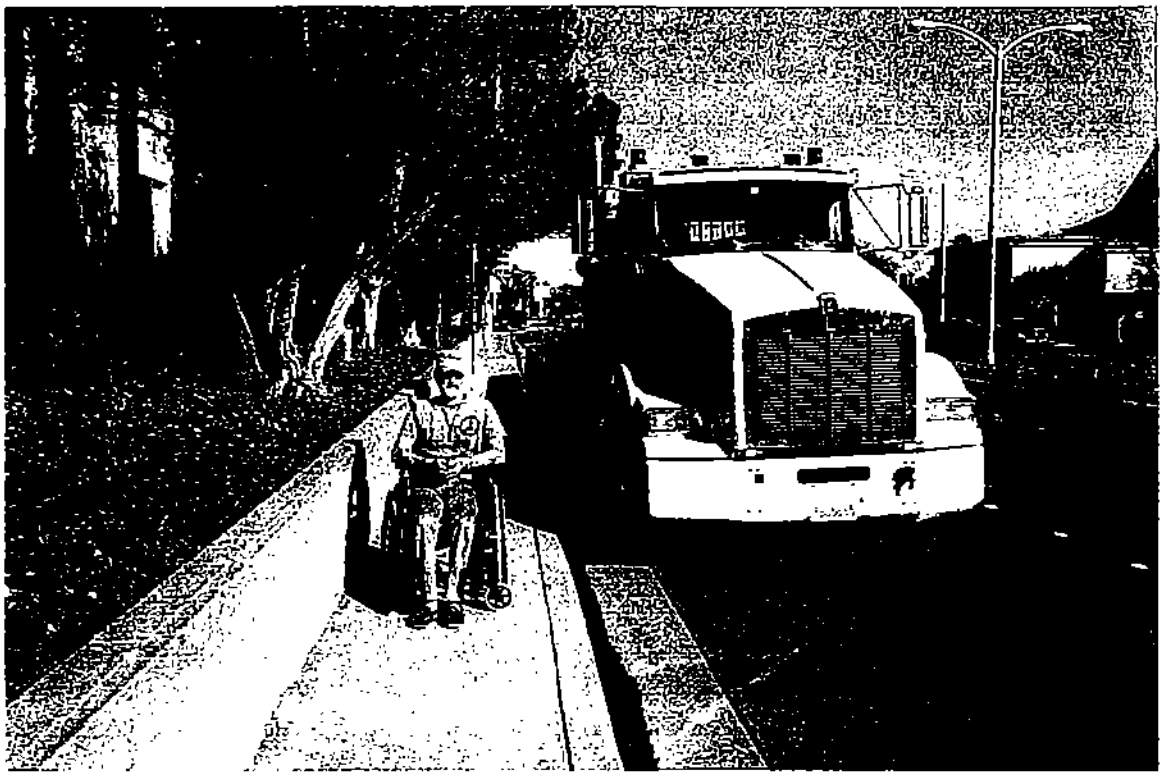
Therefore, approval of any project should require the developer to install a sidewalk of a suitably safe width that is compatible with its proximity to a busy thoroughfare. I would suggest a width of 10' to 12' with appropriate landscaping to enhance the enjoyment of both pedestrians and motorists.

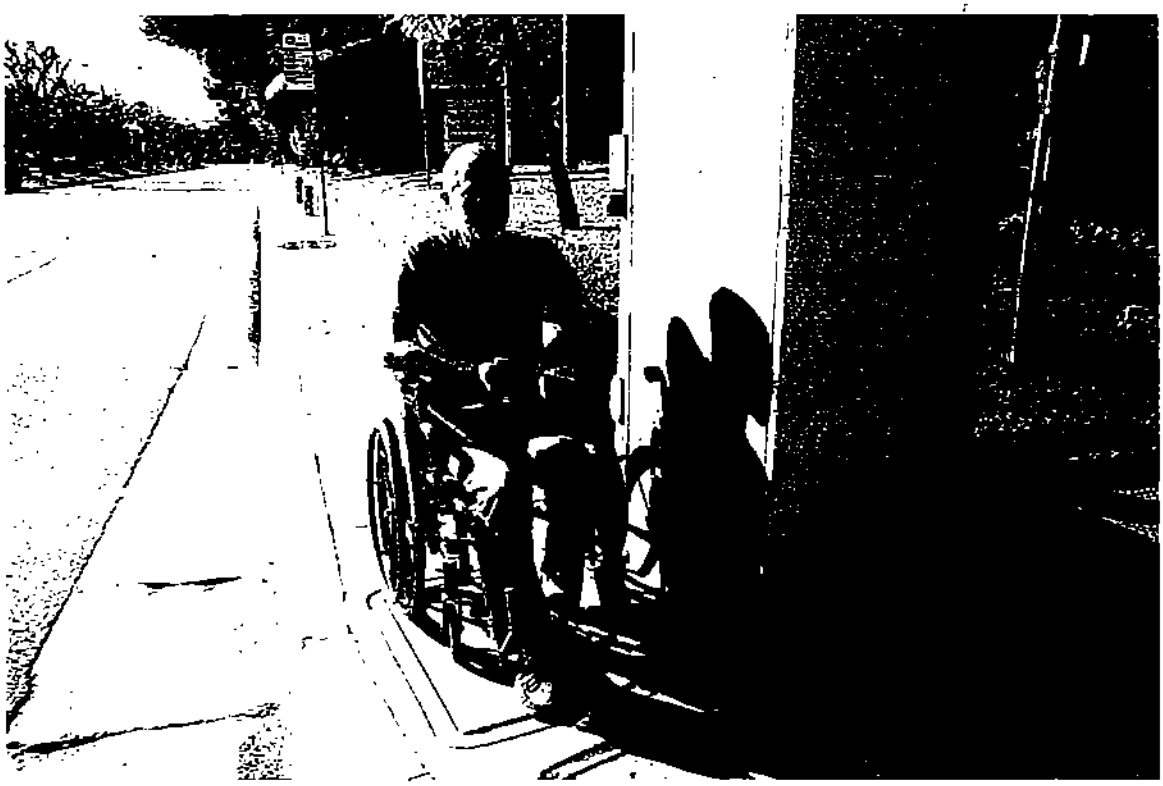
Thank you for your consideration of these comments.

Very truly yours

JONATHAN A. TILLMAN

Attachments (3 photographs)





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December 12, 2005

RECEIVED
DEC 14 2005

Planning Commission
320 West Temple Street
Los Angeles, CA 90012

RE: Coastal Development Permit T200500002, Variance T200500004, and Parking Permit T200500004

Gentlemen:

I am not able to attend your meeting January 25, 2005 regarding the above-referenced matters. However, I would like to respectfully voice some major concerns I have about this project:

1. I am quite concerned about the added density in Marina del Rey and the impact it will have on the ever-increasing traffic and usage of local facilities. It has become very unpleasant to get around in Marina del Rey, and too many projects are occurring in too short a time. Those of us that live here are paying the price in an unacceptable traffic and noise level. I don't feel that sufficient thought has been given to mitigating our traffic issues. And parking at local shopping areas has become unbearable.

2. I am concerned about the height of the proposed project on this side of the marina. The marina was developed for the benefit of boating in Los Angeles County, and I am very concerned about the impact of this project on wind patterns as they affect sailboats in particular.

3. I don't feel any variance should be granted for additional signage. The Los Angeles county signage code should be adhered to for any and all projects in the marina.

4. More thought has to be given to setbacks than was given to the recently built project at the southeast corner of Via Marina and Bora Bora Way. What used to be a pleasant corner visually now has construction right up to the street. I couldn't believe what you allowed to happen there! I hope you don't ever let that happen again!

5. I am deeply concerned about the loss of an open feeling and sky view and morning light from many many units in my condominium complex located right across the street to the west. Many of us bought our units because of the openness and "feeling" of our complex.

6. I don't feel that the applicant should be permitted to pay an affordable housing in-lieu fee instead of providing requisite affordable housing units. The complex should be required to have the affordable housing required by law.

7. I don't feel that the complex should be larger in number of units than the existing complex.

8. I don't feel that the complex should be built higher than the existing complex.

9. I am opposed to providing residential compact parking spaces. I'm tired of having to park in these spaces because there is no full-size alternative and not being able to get my doors open. I'm tired of parking hassles all over Los Angeles. There should be more than enough full-size spaces, or fewer units should be built.

Respectfully submitted,

Sue Miller
Owner since January of 1979
4150 Via Dolce, #138
Marina del Rey, CA 90292

RPC MEETING DATE **1/25/06**
AGENDA ITEM NO. **7**

REGIONAL PLANNING COMMISSION TRANSMITTAL CHECKLIST

PROJECT NO: R-2005-00234

CASE NO. CDP 200500002, VAR and PK 200500004

CONTACT PERSON: Russell Fricano

- ☒ STAFF REPORT
- ☒ DRAFT CONDITIONS (If Recommended For Approval)
- ☐ DRAFT FINDINGS FOR DENIAL (If Land Division Case Recommended For Denial)
- ☒ BURDEN OF PROOF STATEMENTS (Zoning or Plan Amendment Requests)
- ☐ ENVIROMENTAL DOCUMENTATION
- ☒ VICINITY MAP (Identifying Subject Property)
- ☒ LAND USE RADIUS MAP
- ☒ SITE PLAN (Revised)
- ☒ PHOTOGRAPHS
- ☒ CORRESPONDENCE
- ☐ _____
- ☐ _____
- ☐ _____

Reviewed By: _____

Preliminary
Exterior Sign Massing,
Locations and Square Footage

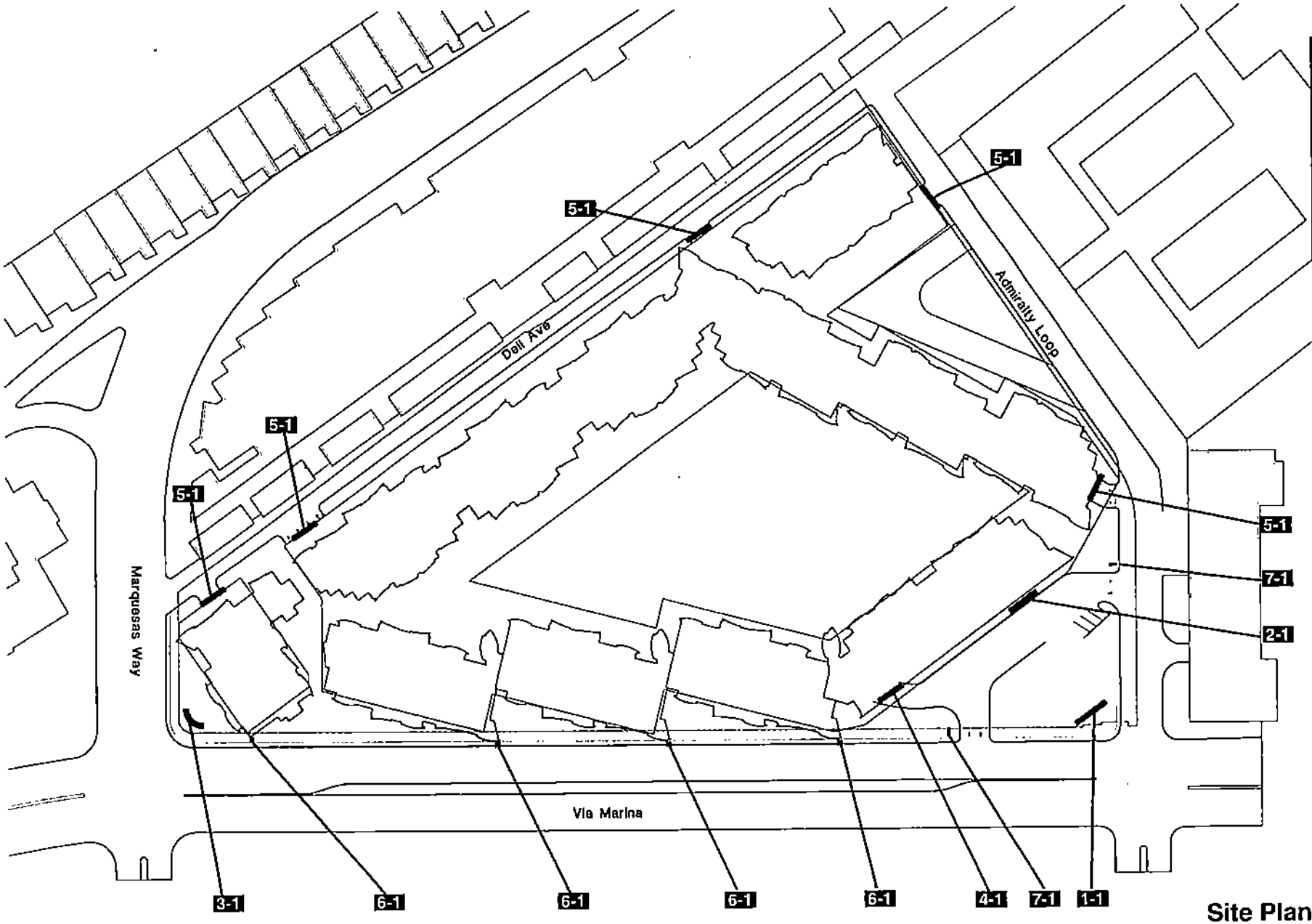
Shores

4201 Via Marina
Marina Del Rey, California 90292

May 10, 2005

BECK & GRABOSKI
Design Office

Telephone 310 [illegible]
FAX 310 [illegible]
[illegible] Santa Monica California [illegible]



BECK & GRABOSKI
Design Office

Shores

Date May 10, 2005
Project
Scale
Drawn By
Check
Revised

Site Plan

SP

Preliminary Sign Square Foot Calculations - Massing Models Only

Sign Type	Description	Quantity	Size		Square foot
1	Main project identification on corner	1	5h x 25w	=	125
2	Main project identification on building	1	3h x 25w	=	75
3	Secondary project identification on corner	1	5h x 25w	=	125
4	Parking entrance / exit - front entrance	1	2h x 25w	=	50
5	Parking entrance / exit - residents at rear	5 signs	1.5h x 25w	=	187.5
6	Project symbols = ground level - D/F	4 signs	5h x 5w	=	100
7	Parking directional - monument - D/F	2 signs	4.5h x 5w		45

Preliminary Total Square Footage of Proposed Signs 707.5 sq ft

Maximum allowed square footage - (1 sq ft per front foot of project) 878.4 sq ft

BECK & GRABOSKI
Design Office

Shores

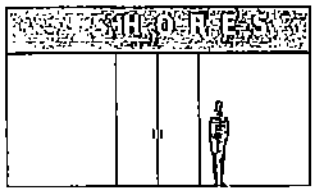
Date May 10, 2005
Project
Scale
Drawn By
Check
Revised

Sq Ft

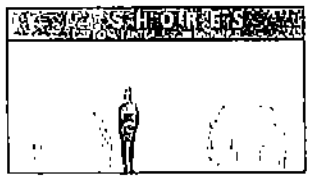
Sign Type 1 5'-0" x 25'-0"

Sign Type 3 - 5'-0" x 25'-0"

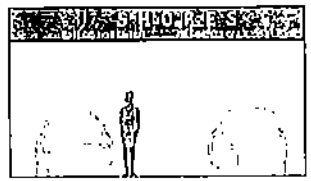
Sign Type 7 - 4'-6" x 5'-0"



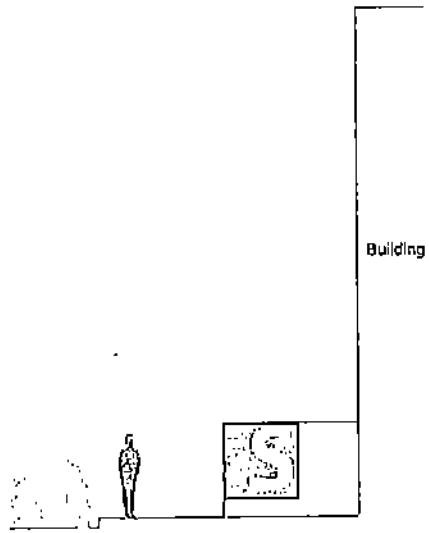
Sign Type 2 - 3'-0" x 25'-0"



Sign Type 4 - 2'-0" x 25'-0"



Sign Type 5 - 1'-6" x 25'-0"



Sign Type 6 - 5'-0" x 5'-0"

Preliminary Messing Models
Scale: 1/8"=1'-0"

BECK & GRABOSKI
Design Office

Shores

Date May 10, 2005
Project
Scale
Drawn By
Check
Revised

M1

Attachment A
Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Coastal Development Permit
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to Section 22.56.2410 of the Los Angeles County Code, which outlines the requisite findings for approval of a coastal development permit. Each required finding is listed below in italicized font; the applicant's description of how the proposed development project satisfies each finding follows in bold font.

The applicant shall substantiate to the satisfaction of the Planning Commission the following facts:

1. That the proposed development is in conformity with the certified local coastal program.

The proposed residential development project is consistent with the certified Local Coastal Program's Marina del Rey Specific Plan in that:

- **Consistent with LACC 22.46.1180.12.a, the project has been reviewed and conceptually approved by the Department of Beaches & Harbors' Design Control Board (DCB), as further outlined in Attachment "D" to this application (DCB's approval letter for project). In rendering its conceptual approval for the project, the DCB found the proposed project to be in conformity with the various public access, height, circulation, building massing, visual impact and view requirements of the LCP.**

- **The design of the proposed residential buildings is in compliance with the site design and architectural treatment requirements of the Specific Plan and the specific design will be regulated by the Design Control Board. As the parcels are not waterfront parcels, a project view corridor is not required.**

- **The proposed use complies with all applicable communitywide design guidelines of the Marina del Rey Specific Plan, as provided in Section 22.46.1060 of the County Code, as follows:**

  - **Landscaping is depicted along the perimeter of the site which exceeds the minimum Code-required width of eight feet. Those portions of the underground parking structure that may be visible above ground have been appropriately shielded. Landscaping plans will be required for review and approval by the County Biologist and the Design Control Board prior to obtaining building permits.**

- Per the Specific Plan, lot coverage is limited to 90% of the site and a minimum of 10% of the site must be landscaped. Project structures cover approximately 140,027 square feet of the approximately 8.31-acre site, for site coverage of only approximately 40%. The total area devoted to open space (perimeter landscaping and interior courtyard and landscaped areas) is approximately 224,040 square feet, or roughly 60% of the project site. Moreover, a large portion of the project's open space landscaped area is not underlain by any structures so it will allow for natural percolation of water thereby reducing project surface runoff.

➢ Consistent with LACC 22.46.1190.A.1, site development on Parcels 100 & 101 will occur in geologically safe areas.

➢ The applicant will conduct site development in conformity with the archeological reporting requirement specified in LACC 22.46.1190.2.a-c.

➢ Consistent with LACC 22.46.1190.A.3, the applicant proposes implementation of a functional transportation systems management (TSM)/Transportation Demand Management (TDM) program incorporating the on-site installation of bike racks and a carpooling informational bulletin board.

➢ The proposed development project conforms to the phasing schedules in the certified LCP because:

- There will be no significant, unmitigated daily and peak-hour adverse traffic impacts created as a result of project development;

- There is sufficient traffic capacity in both the Marina del Rey internal system and the subregional highway system serving the Marina to accommodate the traffic generated by the modest planned development; and

- Parcels 100 & 101 are located in LCP Development Zone 12 (Via Marina), which has a current residential development capacity/"cap" of 530 additional dwelling units (see LACC 22.46.1910). The proposed development will result in the addition of 342 net new dwelling units, which is significantly less than the remaining development allocation of 530 dwelling units in the Via Marina

Development Zone. After project development, there will thus be a remaining balance of 188 dwelling units remaining in the Via Marina Development Zone (i.e., 530 allocated to DZ - 342 net new units in project = remaining balance of 188 dwelling units in DZ). Accordingly, the project is in full conformity with the residential build-out limitations of the LCP specified for the Via Marina Development Zone.

The applicant is proposing a residential density for Parcels 100 & 101 that is significantly less than that otherwise provided for the Parcels in the LCP: i.e., only 544 project units are proposed whereas the LCP would support development of 623 units (i.e., 8.31 acres x 75 du's per acre = 623 du's).

- **The proposed development project is entirely consistent with the subject parcels' "Residential V" land use designation per the MDR Specific Plan in that:**

  - **All uses that will be accommodated on Parcels 100 & 101 are included in the list of permitted uses provided in the MDR Specific Plan for the Residential V land use category (see LACC 22.46.1310);**

  - **The proposed development is in conformity with the front, rear and side yard setbacks specified in LACC 22.46.1330; and**

  - **Site development will not reduce the amount of land area devoted to existing visitor-serving, boating or marine commercial uses, but will significantly improve pedestrian circulation and public access opportunities around the perimeter of the project (through construction of a new, widened public sidewalk, installation of attractive landscaping and accent lighting on the site's public frontage along Via Marina).**

- **The proposed development is in conformity with the special development considerations specified for Parcels 100 & 101 in LACC 22.46.1910 in that:**

  - **Proposed building height of 75 feet for the project (which is exclusive of appurtenant screened rooftop mechanical equipment, and selected artistic architectural elements/"sail" forms which would extend**

approximately 25 above the roofline) is well below the parcel specific building height limitation of 225 feet;

- **Proposed project infrastructure has been designed, and will be constructed by the applicant, in an environmentally sensitive manner, and shall follow design policies of the LCP, including landscaping standards required by the Department of Beaches & Harbors' Design Control Board.**

Project Consistency with Policies of the Marina del Rey Land Use Plan

As noted, the subject parcels are designated Residential V in the Marina del Rey Land Use Plan (LUP), which allows for "high density multi-family residential development up to 75 dwelling units per acre." The proposed project is consistent with these land use designations. The project complies with the following Land Use Plan policies, which are applicable to the project:

- **Shoreline Access:**
  Policies 1, 2 and 10 – 13 of this element of the LUP establish requirements for new development to follow which would preserve or enhance public access to the shoreline and awareness of shoreline access points.

  As Parcels 100 & 101 are not waterfront parcels, direct access to the shoreline is not possible; nonetheless, the applicant proposes to improve public pedestrian access along the perimeter of the site through construction of a widened sidewalk and installation of substantial landscaping improvements along public streets fronting the project site. The applicant will also be required to pay traffic mitigation fees, a portion of which will be utilized to fund a future shuttle bus system in Marina del Rey.

- **Recreation and Visitor-Serving Facilities:**
  Policies 5 – 7 and 16 of this element of the LUP require, respectively: that non-priority uses contribute to the Coastal Improvement Fund, which will be used to fund development of recreational facilities to offset increases in residential density; that parking for new development be provided consistent with County Code requirements; and, that parking areas be softened in appearance with landscaping.

  As residential uses are not deemed to be a priority use in the Marina, the applicant will be required to contribute to the Coastal Improvement Fund as provided in the MDR Specific Plan, consistent with the above LUP policy. The project will be fully compliant with the parking requirements of the County Code (through the

applicant's obtainment of a Parking Permit to allow compact parking for a small portion of the project's residential spaces), and sufficient landscaping has been programmed along the outer perimeter of the site.

- Marine Resources:
  Policy 2 of this element of the LUP requires that appropriate measures be taken to reduce contaminated runoff into bay and Ballona Creek waters.

  The applicant has completed a drainage concept, which has been approved by the Department of Public Works, and will be required to comply with the requirements of the drainage concept. In addition, the applicant will be conditioned to fully comply with the County-administered NPDES permit prior to issuance of grading permits to ensure that Marina waters are not polluted by runoff from the project.

- Cultural Heritage Resources:
  Policies 1, 4 and 5 of this element of the LUP require that all projects be reviewed for potential cultural resources impacts and that the Office of State Historic Preservation and the Native American Heritage Commission be notified of the location and dates of project grading. In addition, these policies indicate that if Native American or grave goods are discovered during grading, several sections of the state Health and Safety and Public Resources Codes will govern the project.

  The project was reviewed for potential cultural resources impacts and it was determined that cultural resources are unlikely to be found in developed areas of the Marina. Conditions of approval will be imposed requiring notification of grading activities and providing for state jurisdiction pursuant to the policies of this element.

- Land Use Plan:
  Policies 1, 6, 8 and 10 of this element of the LUP establish preservation of the small craft harbor for recreational purposes as well as provision of visitor-serving facilities as priorities in the Marina and indicate that new development shall not detract from existing or proposed boating facilities. Coastal housing is identified as a use that is not a priority in the Marina while affordable and senior housing is encouraged. The Design Control Board is established to review new development for consistency with the *Manual for Specifications and Minimum Standards of Architectural Treatment and Construction* and the certified LCP. Development zones are also established with development limits consistent with traffic impacts identified in the Marina Traffic Study.

As noted, the project parcels are located in the Via Marina development zone and an additional 188 units will remain available in this development zone after approval of the project; thus the project is within the build-out/residential development potential of the Via Marina development zone. The property has been historically used for residential purposes and the proposed project will continue this use; therefore, boating or other coastal-dependent uses will not be impacted or displaced on the residentially-designated parcels. The applicant will be subject to conditions that will ensure compatibility with other uses in the Marina and the project will satisfy the County's affordable housing policy for Marina del Rey through payment of the Board of Supervisors'-established "in-lieu" affordable housing fee, subject to appropriate findings regarding on-site infeasibility. The Design Control Board reviewed and conceptually approved the project on January 20, 2005, and will review the specific design of the project after final approval by the Regional Planning Commission.

- Coastal Visual Resources:
  Policies 1, 6 and 9 of this element of the LUP require that all new development preserve or enhance views of Marina waters from public areas and that no infringements be created that would affect wind patterns for boats in the Marina.

  As the parcels are not adjacent to the water, there are no views to preserve nor is there an opportunity for new views from public areas to be created; however, as noted, the project will significantly improve pedestrian circulation and public access opportunities around the perimeter of the project (through construction of a new, widened public sidewalk, installation of attractive landscaping and accent lighting on the site's public frontage along Via Marina). A wind study has been conducted in compliance with the provisions of the LCP; this study concludes that the proposed project will not adversely affect wind patterns for sailboats or birds in the Marina.

- Hazard Areas:
  Policies 1 – 3 of this element of the LUP require that flood control, runoff and storm drain plans and geotechnical studies be completed and that earthquake resistant construction practices be utilized to reduce project hazards.

  The project will be conditioned to require full compliance with these studies and utilization of earthquake resistant construction.

- **Circulation:**
  The policies of this element of the LUP detail appropriate circulation improvements that must be completed in order to mitigate traffic impacts of all potential development in the Marina. This element also establishes traffic mitigation fees that must be paid for all new development based on the increase in p.m. peak hour trips generated by the project.

  The project will be conditioned by the County to require payment of these fees to mitigate traffic impacts associated with the project.

- **Public Works:**
  Policies 2, 3, 6, 10 and 11 of this element of the LUP require that appropriate facilities are in place to support the development prior to construction. These facilities include water, sewer, roadways, and fire safety plans. This element also includes a requirement for use of irrigation designed to conserve water. All public works facilities will be required prior to obtaining building permits, following standard County practices.

  The applicant proposes utilization of water conserving devices and irrigation and the project will be conditioned by the County to require that water conservation technology be utilized in all project irrigation.

2. *That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code:*

   This finding is not applicable to the subject development application as project Parcels 100 & 101 are not located between the nearest public road and the sea or shoreline.

Attachment B
Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Parking Permit Application
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to LACC 22.56.1020 of the Los Angeles County Code (LACC), which outlines the requisite findings for approval of a parking permit. Each required finding is listed below in italicized font. The applicant's description of how the proposed development project satisfies each finding follows in bold font.

Parking Permit Request:
The applicant is requesting a Parking Permit pursuant to LACC 22.56.1020 to authorize the installation and maintenance of compact parking spaces for a small portion of the Project's required on-site apartment parking.

The applicant shall substantiate to the satisfaction of the Planning Commission the following facts:

A. *That there will be no need for the number of parking spaces required by Part 11 of Chapter 22.52 because...*

This finding is not applicable to the applicant's parking permit request.

B. *That there will be no conflicts arising from special parking arrangements allowing...compact parking spaces for a portion of the Project's required residential parking because:*

The applicant proposes 189 compact parking spaces out of a total of 1,114 project parking spaces. These 189 compact spaces would comprise only approximately 17% of overall project parking. Per the County Zoning ordinance, 1,088 parking spaces (952 spaces for the dwelling residents and 136 guest spaces) would be required to service the project, so the applicant is providing 26 more parking spaces than required by Code.

As configured, and with the applicant's implementation of an on-site parking management program, the compact parking spaces will constitute an alternate parking arrangement that, while not compromising vehicular ingress, egress and movement throughout the site, will enable the applicant to maximize on-site parking for the project and also maximize the at-grade landscaped area by reducing the size of the parking garage. As noted, to assure an efficient distribution of all project parking spaces and a workable parking plan, the applicant will implement a parking management program for the project.

C. *That off-site facilities, leases of less than 20 years, rear lot transitional parking lot and uncovered residential parking spaces...*

This finding is not applicable since the applicant is not requesting off-site parking, transitional parking or uncovered required residential parking.

D. *That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve surrounding property.*

To the contrary, approval of the requested parking permit will enable implementation of a contemporary parking design for the project that will ensure efficient traffic circulation throughout project site. Approval of the requested parking permit will also enable the applicant to provide 26 parking spaces in excess of Code requirements (while at the same time maximizing the at-grade landscaped area by reducing the size of the parking garage); this, in turn, will help insure that on-street parking and unauthorized use of adjacent, off-site parking facilities is kept to a minimum.

E. *That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in the Zoning Ordinance.*

Site development will occur in strict conformity to the various development standards prescribed in the Zoning Ordinance and certified Local Coastal Program relating to yards, walls, fences, loading facilities, landscaping, etc. Abundant project open space has been provided in the project far in excess of County Code requirements for minimum lot coverage (see Coastal Development Permit burden of proof accompanying application).

Attachment C
Marina del Rey Parcels 100 & 101: Del Rey Shores Apartment Redevelopment
Burden of Proof Statements for Variance (for R-4 Zone signage modification)
Del Rey Shores Joint Venture & Del Rey Shores North Joint Venture (Applicant)

This exhibit has been prepared pursuant to LACC Section 22.56.290, which outlines the requisite burden of proof for approval of a variance in the County of Los Angeles. Each required variance burden of proof is numbered in normal font and is followed, in bold font, by the applicant's explanation of how each burden of proof is being satisfied in this case.

Variance Request:
The applicant is requesting a Variance pursuant to LACC 22.56.260.I to receive authorization for a modification of the applicable R-4 Zone signage standards, in order to install and maintain more project sign area/project sign size than is allowed by-right in the R-4 Zone.

Applicant's Burden of Proof for Variance:

1. That there are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification; and

A special circumstance exists regarding the location of the subject property and its surroundings in that existing apartment projects in the same unincorporated Marina del Rey vicinity and under identical zoning classification have been developed with signage that exceeds the maximum sign area and sign size standards prescribed by these nearby properties' underlying zoning classifications. The unusually large size of the project site also presents a special circumstance not generally applicable to other properties in the same vicinity and under identically zoning classification. The 8.31-acre project site is larger than most other similarly zoned nearby properties and the development proposal calls for the construction of twelve (12) apartment buildings over the site. Additional project signage is thus needed beyond that allowed per the controlling R-4 Zone to insure adequate sign exposure on all sides of the site so that visitors and goods deliverers can readily identify and navigate the project.

The County's multi-residential (R-4 Zone) sign standards are out of date and woefully inadequate because they would allow only one (1) wall-mounted building identification sign per principal use, and the area of such sign could not exceed a scant six (6) square feet. Moreover, no project entry monument signage

would be allowed per the R-4 Zone sign standards, whereas entry monument signage is a conventional and expected element of any new contemporary multi-family/apartment project of this size, scale and quality. Therefore, it is only equitable and appropriate that the subject project be entitled to a similar level of project signage as other multi-family properties in the unincorporated vicinity within the same zone. (See photographs accompanying this application of signage for other apartment projects in the same unincorporated vicinity and zone as the subject property).

2. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone; and

The requested variance for modification of R-4 Zone signage standards is necessary in order to preserve a substantial property right of the applicant possessed by lessees of other multi-residential properties in unincorporated Marina del Rey within the same vicinity and zone. This is because such other lessees of multi-residential properties in the same vicinity and zone as the subject property have been allowed to develop their parcels with signage that exceeds the standards prescribed for such in these properties' underlying zoning categories. In order for the subject project to compete with other apartment developments in the unincorporated vicinity in terms of on-site signage advertisement, it is only equitable and appropriate that the subject project be entitled to a similar level of project signage as these other apartment developments. (See photographs accompanying this application of signage for other apartment projects in the same unincorporated vicinity and zone as the subject property).

3. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.

To the contrary, approval of the requested variance will only serve to improve the public welfare by making it easier for visitors of residents of the project and goods deliverers to locate the apartments; in turn, this could lead to a reduction in local traffic congestion because these visitors to the apartments will easily be able to locate the development. The Design Control Board ("DCB") of the Department of Beaches & Harbors is charged with regulating all signage in Marina del Rey through the application of standards set forth in the DCB's Revised Permanent Sign Controls and Regulations (which is a section of the Manual for Architectural Standards of the certified LCP); therefore, your

Commission can be assured any project signage subsequently approved by the DCB will be in conformance with applicable sign regulations and in concert with the community character in terms of design and quality. Approval of the requested variance will in no way be injurious to other property or improvements in the same zone and vicinity because the applicant is simply requesting to be able to develop project signage on-par in terms of quantity and size with other existing apartment projects in the unincorporated vicinity.

VAN WERT, INC.

Land Use & Entitlement Consulting

January 25, 2006

HAND DELIVERED

Regional Planning Commission
County of Los Angeles
Hall of Records, Room 150
320 West Temple Street
Los Angeles, California 90012

File #707044

Re: The Shores Project-Marina Del Rey R2005-00234-(4)

Dear Commissioners:

The Commission, at its January 25th hearing, will consider the redevelopment of the Del Rey Shores property (Parcels 100 & 101) in Marina Del Rey. Reconstruction of the site and the provision of 544 new apartment units (the "Project") is a welcome addition to Phase II development in the Marina. The purpose of this letter is to comment on the Draft Environmental Impact Report (the "DEIR") for the Project.

I have been asked by the lessee of the Esprit development (Parcels 12 & 15) across Via Marina from the Project site, to review the DEIR and provide advice on potential impacts or effects of the Project. Phase I of the Esprit development (Parcel 12) is currently under construction. I have been unable to complete the assignment because the DEIR fails to incorporate key information. Specifically, Section 5.9-1 Sewer Service is based on "the Sewer Capacity Report prepared by PSOMAS, February 2005."[1] I have reviewed both the DEIR and the Volume II Appendices and the cited sewer capacity report is not included. I cannot properly review and provide informed comments to the Commission on this section of the DEIR, without the background material on which its conclusions are based. Also Volume II, Appendix 5.9 of the DEIR contains a cover page from a separate report titled "Sewer Area Study" dated August 2, 2005. I can assume this is an updated version of the cited report however, the actual study isn't provided, and further, the cover page seems to suggest that the Sewer Service Section of the DEIR is based on an outdated study. This causes one to speculate whether the updated information might affect conclusions in the DEIR with respect to capacity or suggested mitigation measures. Quoting the Notice of Preparation (the "NOP") for the DEIR; "a full analysis of sewer line capacity from the project site to sewer trunk lines is necessary to adequately evaluate system capacity. The following analysis would be incorporated into the proposed EIR to adequately address potential project and cumulative impacts...."[2] This DEIR fails to respond to this mandate from the NOP. Further, the

1 The Shores Project, Draft Environmental Impact Report Volume 1, page 5.9-1.
2 The Shores Project DEIR Volume II-Appendices Appendix 2.0(A) page 14.

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Marina Del Rey Specific Plan[3] requires that "(d)ocumentation shall be submitted which shows that sufficient...sewer system and waste treatment capacity exists or will exist" for new development. While the title page and review stamp from the report are certainly welcome information, I believe these two pages fall short of the intent of the ordinance and CEQA requirements with respect to documentation and that the full text of the report is required.

Infrastructure capacity, (roadways, drainage, sewers & water) is of paramount importance in the Marina, because each of these systems is dependent upon and integrated with regional systems over which the County and developers have limited control. In the subject instance, the County has contracted with and utilizes City of Los Angeles sewer facilities. The DEIR must include the "Sewer Area Study" to provide adequate information describing the Project-specific and cumulative impacts of this Project on regional sewer system capacity.

Therefore, I request the Commission consider continuing this case for 60 days to permit the recirculation of the DEIR with the appropriate sewer study reports included, along with an explanation of any revisions between the cited report used for drafting the DEIR and the updated report noted in the Appendices.

I appreciate the Commission's consideration of this request and look forward to the opportunity to review an adequate DEIR with appropriate infrastructure mitigation measures. The Shores Project will have a positive affect on the quality and character of Marina development. The Project deserves the Commission support and should receive the necessary entitlements to allow the construction of this new apartment complex as soon as possible.

Very truly yours,

ROGER K. VAN WERT, PRESIDENT
VAN WERT, INC.

Cc: Hartl
Ring
Koutnik
Fricano
Hafetz
Clark

3 The Los Angeles County Code Section 22.46.1180 (14).

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February 24, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Revised Comments Regarding Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this revised letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, the Western Center on Law & Poverty (WCLP), in opposition to the request to allow payment of fees in-lieu of providing affordable housing units at Del Rey Shores.

LAFLA, WCLP and POWER are intimately familiar with the State's Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in our favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with us in 2001 and adopted Interim Administrative Procedures for Complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One case in particular involved a proposed 298 unit development in the Marina Del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 on-site very low-income apartment units or 27 on-site very low-income condominium units, despite the fact that the developer had the additional expense of creating a $5 million access road. Importantly, Trammell Crow was able to meet its on-site affordable housing obligations at this development without taking advantage of a density bonus.

I. The State Mello Act Requires Replacement of Affordable Units that are Demolished in the Coastal Zone. The County Must Determine Whether any Low or Moderate Income Households Currently Reside at the Existing Development.

The Mello Act prohibits the conversion or demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." Gov't Code 65590(b). At Del Rey Shores, the developer is proposing to demolish a 202-unit apartment complex. However, the staff report does not contain any discussion regarding the economic status of the current residents. If low or moderate-income households currently reside at any of the 202 currently existing units, those units must be replaced. Although the developer stated, at the January 25, 2006 hearing before the Regional Planning Commission, that the existing Del Rey Shores units are market rate units, this does not answer the question as to whether there are tenants of low or moderate income residing in those units. The developer and the County are required to examine the incomes of existing tenants, not rent levels, in making a determination as to whether replacement housing is required.

With respect to the location of required replacement units, the Mello Act provides, "Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.*

The Regional Planning Commission cannot approve demolition of the 202 units currently located at the site of the proposed development without first determining whether any of these households are of low or moderate-income. To do otherwise would violate the Mello Act's replacement housing requirement.

II. The State Mello Act Does Not Allow Developers to Pay In-lieu Fees for Inclusionary Units unless it is Infeasible to Provide Even One Affordable Unit On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . . " CA Gov't Code Sec. 65590(d) (emphasis added). Pursuant to the Mello Act, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

While the Mello Act specifically contemplates in-lieu fees for replacement units, it does not do so for inclusionary units. With respect to replacement units, the Mello Act provides:

> The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished units is feasible, in which event replacement dwelling units shall be required:
>
> The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subsection.

CA Gov't Code Sec. 65590(b) and (b)(4).

The Mello Act does not contain a similar provision regarding in-lieu fees for inclusionary units. The Mello Act, therefore, does not allow in-lieu fees for inclusionary units unless it is infeasible for the developer to provide even one affordable unit on or off-site. The County's Affordable Housing Policy violates the Mello Act, as it allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible. The developer's request to pay an Affordable Housing In-Lieu Fee for Del Rey Shores should be denied, as it is feasible for the developer to provide 50 affordable units on-site as is discussed in Section III below.

III. If the County Reduces its Ground Lease Rent by 52%, as it is Required to do Pursuant to its Affordable Housing Policy, it is Feasible for the Developer to Include 50 Affordable Units On-Site at the Proposed Development.

As is discussed later in Section VI of this letter, it is feasible for the developer to fully comply with the County's Affordable Housing Policy, by providing 10% on-site affordable units (55 affordable units), if a more accurate methodology and threshold are utilized for analyzing feasibility. Nonetheless, even if KMA's proposed methodology and threshold are utilized, it is still feasible for the developer to nearly fully comply by providing 50 on-site affordable units (9.2%) if the County reduces its ground lease rent as it is required to do under its Affordable Housing Policy.

The County determined in its Affordable Housing Policy that a reduction in ground lease rents of 53% or more would make a project infeasible. (Policy at p. 11). Accordingly, a project is feasible for the County with a rent reduction of 48% or less. As KMA's Table 1 shows, the ground lease payment is currently set at 10.5% of the net rental income. Therefore, an acceptable ground lease rate is 5.04% of the net rental income (48% of 10.5%). As shown in KMA's Table 1, the net rental income is $15,675,100. Therefore, the County can feasibly reduce the ground lease to $790,025.

As KMA indicates in Table 2, the developer could feasibly include 10% affordable units on-site if the County reduced the ground lease payment to 4.4% of the net rental income or to $689,700. However, as noted above, the County considers infeasible a rate below 5.04% of the net rental income. Comparing the feasible ground lease rate of $790,025 to $689,700, results in a difference of $100,325 a year in lease payments.

Based on KMA's Table 1, the market rate unit rents average $32,900/year in rent (to be adjusted for 5% vacancies) ($16,087,900 divided by 489 units). The affordable units average $7120/year ($391,600 divided by 55 units). We can calculate the increase the developer would get for switching one of the 55 affordable units to market rate by multiplying 95% with the average market rate rent minus the average affordable unit rent. In other words, each switch equals (.95)($32,900) - $7120 = $24,135/year. A switch of five affordable units produces $120,675 – more than sufficient to make up the $100,325 gap. Therefore, inclusion of 50 affordable units on-site is feasible. Since it is feasible for the developer to include affordable units at its development, the developer's request for an in-lieu fee should be denied. If the County grants the developer's in lieu fee request, the County will be in violation of the Mello Act.

IV. The Developer has not Adequately Studied the Feasibility of Providing Affordable Units Off-site.

Another important reason not to grant the developer's request to pay an in-lieu fee is that the developer has not studied the feasibility of providing affordable units off-site. Although the County's Affordable Housing Policy allows developers to pay in-lieu fees where inclusion of on-site units is infeasible, the Mello Act does not permit payment of in-lieu fees unless it is infeasible to provide even one affordable unit *either on or off-site*. If on-site affordable units are infeasible, the Mello Act provides that "the local government *shall* require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof." The County's Policy, therefore, conflicts with the requirements of the Mello Act. The developer's in-lieu fee request cannot be granted by the County unless it is infeasible to provide any affordable units, either on-site *or* off-site.

In the present case, although KMA briefly discusses the developer's obligation to determine whether off-site units are feasible, KMA merely mentions an informal and outdated study (three years old) to conclude that off-site units are not feasible. Because it is the developer's obligation

under the Mello Act to show that off-site units are not feasible, the developer must undertake further analysis regarding this matter.

V. The Developer Misunderstands the Purpose of the Mello Act and Miscalculates the Number of Affordable Units that can be Built Off-site with a $3.8 Million In-Lieu Fee.

In its In-Lieu Fee Application, dated Nov. 17, 2005, the developer alleges that it should be allowed to pay an in-lieu fee because the fee can be leveraged to provide a greater number of housing units elsewhere within the County. This argument runs counter to the *entire* purpose of the Mello Act, which is to prevent the coastal zone and surrounding areas from becoming gentrified. The Mello Act is not about getting the most bang-for-your-buck, but instead about ensuring that coastal areas are inhabited by those with varied incomes.

Moreover, the developer grossly miscalculated the number of affordable units that could be provided off-site with a $3.8 million in-lieu fee. Contrary to the developer's contention that $3.8 million would create 63 off-site affordable units, such an in-lieu fee would actually only create 17-18 units of off-site affordable housing. The developer inappropriately inflated the number of units that could be created with an in-lieu fee by assuming that it would be combined and leveraged with other public funding sources (e.g., tax credits, bond financing, etc).

The developer was wrong to calculate the benefits of its proposed in-lieu fee in combination with other funding sources for two reasons. First, in-lieu fees in and of themselves should be sufficient to create an entire affordable unit. According to a study commissioned by the City of Los Angeles regarding the Mello Act, HR&A (the City's consultant) estimated that the total in-lieu fee subsidy required for a low-income unit in the coastal area at about $215,000. Therefore, an in-lieu fee of $3.8 million would only provide 17-18 affordable units off-site. Even if the County used the in-lieu fee to build off-site affordable units outside the coastal zone, the County would not be able to build the 50 affordable units that are feasible if the developer includes the affordable units on-site at the proposed development. The second reason the developer erred in calculating the benefits of its proposed in-lieu fee is that the developer asserts many times in its in-lieu-fee application that tax credits, public bond financing and other public revenues are very competitive and difficult to obtain. Assuming this is true, the developer cannot assume that the County could easily leverage its in-lieu fee.

VI. The Developer's Feasibility Analysis Relies on Incorrect Assumptions and Flawed Methodologies to Reach Erroneous Conclusions about the Feasibility of Mello Act Compliance.

The developer submitted an in-lieu fee application dated November 17, 2005 alleging that it is infeasible to provide affordable units on-site. However, our independent financial analysis reveals that 10% on-site affordable housing is, in fact, feasible at the project. In our work with the City of Los Angeles, we have provided numerous submissions regarding feasibility standards. Dr. Neil Mayer, of Neil Mayer and Associates, is an expert in the real estate development field

and has reviewed the developer's feasibility analysis and the County's Policy. His independent analysis concludes that the developer's study relies on flawed assumptions and ignores important factors related to feasibility. Dr. Mayer has also concluded that County's Policy should be revised using alternative methodologies and thresholds. (The resume of Dr. Mayer is included as Attachment A).

A. Density Bonus

The developer's analysis of the feasibility of on-site affordable units assumes no density bonus will be allowed by the County. This means that each affordable inclusionary unit added means one market rate unit is eliminated, along with the profit and value it would generate. Yet, density bonuses are allowable by state law for projects that include on-site affordable units. This bonus is extremely valuable because, in essence, it allows adding market rate units at no additional land cost. The developer argues that it cannot take advantage of a density bonus because the County rejected its original plan to build a 780-unit project. However, adding 55 additional units to the currently proposed 544-unit complex equals only 599 units. The developer has provided no analysis as to why a 599-unit complex is not feasible, especially given the fact that State density bonus law and the Mello Act entitle the developer to a density bonus. Gov't Code § 65915 *et seq*. Because such an analysis has not been provided, the developer's request to pay an in-lieu fee must be denied, as the County's Affordable Housing Policy requires that such an analysis be provided.

B. Threshold

Use of a more accurate rate of return standard allows for full on-site Mello Act compliance. As noted above, KMA uses the feasibility threshold of 8% return on total development cost (NOI/TDC). Even if one agrees to a feasibility standard based on unleveraged return on total development cost, 8% is too high of a threshold. KMA calculated its 8% threshold by starting with a 6.5% rate for standard apartment projects. KMA then adjusts the rate upward by 150 basis points, to 8.0%, to compensate for: (1) the fact that the project can expect less appreciation than a fully market rate project because some units are rent restricted; and (2) the fact that the land will be leased for less than 60 years as opposed to fee simple ownership by the developer.

The 150 basis points adjustment far exceeds what is justified by the conditions of the project at hand. A more accurate adjustment would be less than 20 basis points, yielding a return on development cost of 6.5% + 0.2% = 6.7%. Using a feasibility cut off of 6.7% makes the project highly feasible even with a 10.5% lease rate and 10% affordable units on-site.

There are two reasons a smaller adjustment in basis points is warranted. First, consider the appreciation issue. KMA asserts (p.2) that a project with **100%** affordable units will have return requirements that are 100 basis points higher than market rate because of limited potential for appreciation. Yet, the Shores is only required to have 10% affordable units. The 90% market rate units can be expected to provide roughly 90% of the appreciation of a fully market rate project, simply because 90% of the units can obtain increased rents in the market as in the 100% market

rate project. Thus, the appreciation-related adjustment for this project should be only 10% of 100 basis points, or 10 basis points.

Second, consider the lease issue. KMA states that the project will have a lease term of less than 60 years. The disadvantage of a ground lease, as opposed to fee simple ownership, is that the developer (or some future owner of the improvements) may not be able to obtain the potential net income that would accrue after the lease expires. Suppose we assume the extreme case that the developer in this case receives no further income or capital payment for the apartments after 60 years. Although apartments of this nature usually do not exist for more than 60 years, to be conservative, we compared the 60-year stream of net operating income received in the leasing case with 100 years of revenue in the land ownership case. We computed the present value of the 60 year stream of fixed NOI and compared it with that of the 100 year stream, using a discount rate of 8% (KMA's rate of expected return on real estate projects). The 60 year leasehold yields a present value that is 99% of the 100 year level. That percentage falls only very slightly if the land ownership project is assumed to last even longer than 100 years. Thus, the developer should seek a 1% higher return rate, at the most, for a project with a 60 year lease. Even assuming the 1% is 1% of an 8% base return, this is only 8 basis points.

Based upon the above analysis, a good estimate of the premium for a 10% affordable land lease project would be about 18 (10 + 8) basis points, or a little more if the lease is a little shorter than 60 years. Starting with KMA's 6.5% rate for standard apartment projects, an 18 basis point (1.8%) addition yields a feasibility threshold of 6.7%.

KMA, in its Table 1, finds that the Shores project with 10% low-income units and a full 10.5% land lease rate yields a 7.3% return on cost. This substantially exceeds the 6.7% figure and clearly indicates feasibility for the project. The 7.3% figure would allow for an 80 basis point adjustment for the project's specifics, while still keeping the project feasible—four times what we calculate as economically necessary.

In fact, we need only reduce the KMA adjustment for appreciation and leasing by a tiny amount, from 150 to 143 basis points, to make the project feasible at a reduced land lease rate (to the required 48%). Even if one disagrees with our 18-basis point computation[1], it is easy to see that a minor reduction in KMA's assumption by at least 7 points is more than warranted.

C. Methodology

The feasibility measure that KMA utilizes (and which is referred to in the County Policy) is an incomplete and inferior way to measure feasibility, which therefore results in an inappropriately high rate of return as a feasibility standard. KMA uses NOI/TDC as its return measure, neglecting the appreciation real developers expect in addition to annual income and neglecting the borrowing that real developers use to finance much of their project costs. A more complete and

[1] For example, one might argue that inflation increases the basis point.

accurate way of assessing return on an apartment development is to undertake a two step analysis:

- To value the structure as if it were being sold shortly after stabilized occupancy, based on its current income and the capitalization rate that reflects the market's assessment of the value of the income stream; and secondly
- To assess profitability in terms of the profit gained by the excess of sales value over total development cost, compared to the funds actually invested by the developer (equity, not borrowed funds).

The 8% NOI/TDC standard that KMA uses as a feasibility cut-off translates into a 70-80% return on invested equity at sale. This is far more than is necessary to encourage developers to invest and further evidences that 8% is much too high a cut-off. As we have already noted, a small reduction in the cut-off standard to 7.3% makes the project feasible with the full County ground lease rents and 10% on-site affordable unit requirement.

D. Financing Options

1. Tax-Exempt Bond Financing

The developer and KMA do not include the option of using tax exempt bond financing to mitigate the inclusion of affordable on-site units. Tax exempt bonds are state-issued borrowings that have interest rates below those in the normal market because interest earned by bond buyers is exempt from state and federal taxes. By producing 20% very low-income units on-site, the developer would be eligible for such financing for the entire (100%) project.[2] These bonds are currently available on a noncompetitive basis[3] from the California Debt Limit Allocation Committee, so that the developer could be confident of obtaining the loan. The bond financing would reduce the effective interest rate by about 1%, or about 15% savings in construction financing costs, and about 12%-15% more in permanent financing. These savings easily outpace any cost increase associated with prevailing wage requirements, which practitioners in the field estimate would only increase construction costs by 3% - 5% at the proposed development.

2. Tax Credit Financing

The developer's application dismisses the option of using 4% tax credit equity financing if it produces 20% very low-income on-site units. These credits are automatically awarded to the affordable units once a tax exempt bond allocation is given. This would bring $80,000 - $100,000 of equity for each affordable unit, or up to $6,000,000 for the 20% very low-income option.

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[2] That would involve exceeding the County's 10%. The extra 10% would need to be affordable to people at 60^ of area median income.

[3] In 2004, all projects that requested bond allocation received them.

This bond/tax credit package is currently non-competitive and under-subscribed. Even if the developer were required to pay prevailing wages on project cost, given that labor is only part of construction cost, prevailing wages would only raise project costs by 3%-5% on a project of this size. Therefore, bond and tax credit financing would still provide a substantial net decrease in overall project costs.

VII. There is no Evidence to Support the Developer's Contention that Providing Affordable Units On-Site Would Reduce County Services to Low-income Residents.

The developer provides no evidence to support its contention that a reduction in the rent it pays to the County would result in a reduction in services to low-income residents. Although on-site housing may require a reduction in rent paid to the County, there is no reason to believe that the County would use this as a basis to reduce services to low-income residents.

Moreover, it is extremely paternalistic of the developer to allege, as it does in its in-lieu fee application, that lower income residents of Los Angeles County will be better served by payment of an in-lieu fee for the Shores. Our Client, POWER, is a community based organization in the Marina Del Rey/Venice area whose members are primarily low-income residents of those neighborhoods. POWER has consistently taken the position that creating on-site affordable housing units at coastal developments is more important than obtaining an in-lieu fee that could create more units off-site. POWER understands well that the purpose of the Mello Act is to ensure that beach communities are enjoyed by those with varied incomes. POWER, accordingly, takes issue with the developer's allegations regarding what is best for its members.

VIII. Conclusion

For the reasons set forth above, the Commission should: (1) continue any decision regarding demolition of the existing building until a replacement housing analysis can be undertaken to analyze the incomes of current residents to determine if any are of low or moderate-income; and (2) deny the developer's application for an in-lieu fee because provision of affordable units on-site is feasible.

Thank you for your consideration of our comments.

Sincerely,

Susanne Browne
Attorney at Law

Attachment

ATTACHMENT A

NEIL S. MAYER
Neil Mayer & Associates
1309 Solano Ave., Suite B
Berkeley, CA 94706
(510) 528-1071

EDUCATION:

PhD, Economics, University of California, Berkeley.

B.A., Economics, Harvard University.

EXPERIENCE:

Principal Professional Positions

President, Neil Mayer and Associates, January 1981 to present.

Undertake housing, economic development, and community development projects that focus on benefiting low-income people, as consultant to private and public sector clients. Projects in areas of research, policy analysis, program development and design, evaluation, and technical assistance and implementation.

Senior Project Manager, Center for Community Change, January 1995 to December 2001.

Projects examining locally generated economic development initiatives that are targeted to serve low-income people and communities by increasing their access to economic opportunity in the wider economy. Technical assistance to community-based organizations carrying out the initiatives.

Director of Community Development, City of Berkeley, CA, January 1991 to January 1995.

Directed staff of 74 in shaping and carrying out all City projects and programs in economic development, housing, community development, and energy. Emphases on expanding opportunities for people in need, while generating resources for community development and other municipal functions.

Assistant City Manager for Economic Development, City of Berkeley, CA, October 1985 to January 1991.

Established new Office as its first director. Overall responsibility for conceptual and program development, management, and hiring and supervision of 20 staff members. Program areas included employment, business assistance, neighborhood revitalization, development impact fees and negotiation, and energy conservation.

Senior Research Associate, The Urban Institute, Washington, D.C., 1977 to 1985.

Responsible for design, conduct, and management of major studies and program development projects in the fields of economic and community development and housing. Emphases on issues of community-based economic development, neighborhood

revitalization, housing rehabilitation and housing costs, and the effectiveness of neighborhood organizations in carrying out housing and economic development projects.

National Science Foundation Resident Scientist, 1980 to 1982.

Analyzed the impacts of growth and revitalization in the housing and broader economic markets in Berkeley, California. Emphasis on how low- and moderate-income people can participate in the benefits of that revitalization.

Economist, Human Resources and Community Development Division, Congressional Budget Office, Washington, D.C., 1975 to 1977.

Responsible for evaluation of budget issues and options in fields of housing, community development, and aid to state and local government -- with emphasis on housing finance and homeownership problems and policies. Activities included research, policy and program analysis, preparation of budget issue papers, and Congressional briefings.

Staff Economist, David Dornbusch and Company, San Francisco, California, 1972.

Conducted research on the economic and environmental impacts of intensive high-rise building development in San Francisco, under HUD research contract.

Teaching

Guest Lecturer in U.C. Berkeley courses in Economics and City and Regional Planning, 1972 to 1975 and 1981 to present.

Subjects included: strategies for local economic development, possibilities of local government assistance for rehabilitation and new construction of housing, the economics of rent control, the role of neighborhood organizations in community development, community participation in master planning.

Trainer in community development, 1996 (continuing), for local government officials, as contractor to HUD.

Lecturer on citizen participation in economic development planning, Czech Republic and Slovakia, 1994.

Related Professional Experience

Member, Local Initiatives Support Corp Advisory Board for Northern California, 1987 to present.

Chair, Bay Area Housing Support Collaborative, 1991 to 1997.

Editorial Advisory Board member, Journal of the American Planning Association, 1988.

Presentations to audiences including Local Initiatives Support Corporation, Local Self-Government Conference in Czech and Slovak Republics, FNMA, National Conference for Urban Economic Development, MIT International Symposium on Neighborhood Policy, American Real Estate and Urban Economics Association.

Expert witness, suits regarding the constitutionality of rent control legislation.

Technical advisor (volunteer) to non-profit community development corporation.

Member of Advisory Task Force on Research in Community Development, AAAS, 1978.

Member of five-person City of Berkeley Housing Conservation Task Force, 1974 to 1975. Task Force was responsible for presenting to the City Council a plan for city-wide municipally-assisted housing rehabilitation.

Chair (1971 to 1973) and member (1973 to 1975), City of Berkeley Housing Committee. Committee was responsible for preparing Housing Element of the Master Plan.

Planning Commissioner, City of Berkeley Planning Commission, 1971 to 1973.

PUBLICATIONS and REPORTS:

"Labor Market Analysis for the Los Angeles County Health Care System," for the Los Angeles Healthcare Workforce Development Program, 2004.

"Revitalizing Neighborhoods through Decentralized Action: the Minneapolis Neighborhood Revitalization Program," 2003.

"Education and Training for Community Developers," for the Ford Foundation, 2003.

"Economic Clusters and Equity," for Ford Foundation/Regional Technologies conference, 2002.

"Local Government's Role in Community Revitalization," with Langley Keyes, for the National Community Development Initiative consortium, 2001.

"Building CDC Capacity in Philadelphia," for the Pew Charitable Trusts,2000.

"Evaluation of the Minneapolis Neighborhood Revitalization Program," with Renee Berger et. al., 2000.

"Assessment of the Neighborhood Improvement Initiative (year 2)," with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1999.

"Saving and Creating Jobs: A Study of Industrial Retention and Expansion Programs," U.S. Department of Housing and Urban Development, 1998.

"Strengthening Rural Economies: A Sector Approach," with Alan Okagaki and Kris Palmer, U.S. Department of Housing and Urban Development, 1998.

"Providing Employment Opportunities for People in Need: The Berkeley Experience," for the James Irvine Foundation, 1997.

"Rowing the Boat with Two Oars," with Steve Callahan et. al., NFG Reports (newsletter of the Neighborhood Funders Group), 1998.

"Assessment of the Neighborhood Improvement Initiative (year 1), with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1997.

"HUD's First 30 Years: Big Steps Down a Longer Road," Cityscape, Vol. 1, Number 3, September 1995.

"Portland Housing and Community Development: Observations and Recommendations," for the City of Portland Bureau of Housing and Community Development, October 1996.

"Options for Area-Focused Grant Making," for the David and Lucile Packard Foundation, October 1996.

"Preserving the Low-Income Housing Stock: What Non-Profit Organizations Can Do Today and Tomorrow," Housing Policy Debate, Vol. II, Issue II, 1991.

"The Role of Non-Profits in Renewed Federal Housing Efforts," in DiPasquale and Keyes ed., Building Foundations, U. Penn. Press, 1990.

"Berkeley's City Hall Is `First Source' When Employers Need Workers" and "`Responsible Development' In Berkeley's Durkee Project Also Means Jobs," Western Cities, October, 1989.

"A Strategy for Progressive Economic Development in Berkeley," Planners Network Newsletter, April, 1989.

"Flexible Linkage in Berkeley: Development Mitigation Fees," with Bill Lambert in Arthur C. Nelson, ed., Development Impact Fees, Planners Press, The American Planning Association, Chicago, 1988.

"Taking Another Look at CDC Performance and Potential," Community Development Research Center, New School for Social Research, March, 1987.

"Roles for Progressive Planners in Community-Based Development," in Barry Checkoway, ed., Strategic Perspectives on Planning Practice, Lexington Books, 1986.

"Future Directions for Neighborhood Organizations," the Charles Stewart Mott Foundation, November, 1986.

"Credit Mechanisms in Community Upgrading in Egypt," The Urban Institute, October, 1985.

"The Role of Lending, Race, and Ownership in Rental Housing Rehabilitation," Journal of Urban Economics, May, 1985.

"Obtaining Benefits from Private Development," for City of Berkeley, 1985.

"Action Recommendations for Berkeley Economic Development," with Lenny Goldberg, for the City of Berkeley, 1985.

Neighborhood Organizations and Community Development, the Urban Institute Press, December, 1984.

"Mobile Home Parks Under Rent Stabilization," City of Los Angeles, May, 1985.

"Conserving Rental Housing: A Policy Analysis," Journal of the American Planning Association, Summer, 1984.

"Community Development Block Grants," The Urban Institute, 1984.

"Housing and Community Upgrading for Low-Income Egyptians," with others, U.S. AID, October, 1984.

"A Strategy for Community-Based Economic Development," Presentation to Mayor's Conference on Economic Development, June, 1983.

Federal Housing Policy at President Reagan's Midterm, with Raymond Struyk and John Tuccillo, The Urban institute Press, 1983.

"How Neighborhood Organizations Succeed and Grow," in Clay and Hollister ed., Neighborhood Policy and Planning, D.C. Heath, 1983.

"An Evaluation of the William and Flora Hewlett Foundation Program in Community Development," Parts I and II, reports to the Foundation, 1983.

"Rehabilitation Decisions in Rental Housing: An Empirical Analysis," Journal of Urban Economics, July, 1981, reprinted in David Listokin, Housing Rehabilitation: Economic, Social, and Policy Perspectives.

"Project Performance by Neighborhood Development Organizations," The Urban Institute, December, 1982.

"Neighborhood Development Organizations: Why Their Projects Succeed or Fail and How They Grow in the Process," The Urban Institute, August, 1982.

"Who is Doing Neighborhood-Based Development: Projects, Skills, Resources, and Limitations," The Urban Institute, May, 1982.

"Building Neighborhood Organization Capabilities in Community Development," with Jennifer Blake, The Journal of Community Action, July, 1982.

"Market Study for a Community-Based Energy Business," April, 1982.

Keys to the Growth of Neighborhood Development Organizations, The Urban Institute Press, July, 1981.

"The Berkeley Economy: The Prospects for Economic Development Planning" (with Ann Markusen, et al.), U.C. Berkeley Institute of Urban and Regional Development, July, 1981.

"Federal Home Repair Programs and Elderly Homeowner's Needs" (with Olson Lee), The Gerontologist, January, 1981.

"Grants, Loans, and Housing Repair for the Elderly," Journal of the American Planners Association, January, 1981.

"Helping the Elderly Repair their Homes," HUD Challenge, September, 1980.

"The Growth and Effectiveness of Neighborhood Development Organizations," paper presented to Urban Institute Board of Trustees, April, 1980.

"The Effectiveness of Federal Home Repair and Improvement Programs in Meeting Elderly Homeowner Needs" (with Olson Lee), Urban Institute Report 1283-1, 1979.

"Factors in the success of Neighborhood Organizations in Community Development: Interim Report," The Urban Institute, 1979.

"Constructing Longitudinal Data Files of Quarterly Residential Alteration and Repair Activity with Illustrative Computations" (with Jack Goodman), Urban Institute Report, 1132-2, 1979.

"Landlord Housing Rehabilitation Decisions," paper presented to the American Real Estate and Urban Economics Association meeting, 1978.

"Design of a Study of Displacement in Neighborhoods Undergoing Private Revitalization" (with Margaret Drury), Urban Institute Report, 1978.

"Determinants of Landlord Housing Rehabilitation Decisions: Empirical Analysis and Policy Evaluation," Ph.D. Dissertation, January, 1978.

"Housing Occupancy Costs: Current Problems and Means to Relieve Them," Urban Institute Report 263-1, 1977.

"Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles," Congressional Budget Office Report, 1976.

"Housing Finance: Federal Programs and Issues," Congressional Budget Office Report, 1976.

"Housing Prices in a Limited Construction Competitive Market," working paper, U.C. Berkeley Economics Department, 1973.

"Impact of Intensive High-Rise Development in San Francisco, California," David Dornbusch and Company contract Report to HUD, 1972.

"Perspective in the Assessment of Large Scale Technology: The Case of the STOL Aircraft System," U.C. Berkeley, Institute of Governmental Studies report to NASA, 1971.

Law Offices of
RICHARD I. FINE & ASSOCIATES
468 North Camden Drive, Suite 200
Beverly Hills, California 90210
Telephone: (310) 277-5833
Facsimile: (310) 277-1543
February 27, 2006

Mr. Rick Kuo
County of Los Angeles Department of Regional Planning
320 West Temple Street
Room 1348
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004; Supplement to January 20, 2006 Letter

Dear Mr. Kuo:

This office represents the Marina Strand Colony II Homeowners Association who are residents of a sixty eight unit condominium complex situated directly west of the Shores Project (Project) across Dell Avenue, a private alley. This letter supplements the January 20, 2006 letter and addresses the omissions of the Staff Report, undated and submitted at the January 25, 2006 hearing of the Regional Planning Commission and the testimony of the applicant.

The "Caps" on New Residential Units, Hotel Rooms etc. May Have Been Exceeded Which Would Preclude Any New Permits from Being Issued.

Under the LCP, the Via Marina Development Zone in which the Shores Project is located has 530 available spaces for new residential units as of 1996. The Staff Report does not address whether the Shores Project is exceeding such "cap" by developing 342 new units. The other residential parcels in the zone are Parcels 100 (Residential V (RV)), 103 (RV) and K6 (RV). The Staff Report at page 7 states:

> According to the Department of Public Works no increases in dwelling units occurred in Zone 12 since certification of the Marina del Rey Local Coastal Program (LCP).

The Staff Report did not address any permits that are in process or have been approved and not yet completed construction. Maps 7 and 20 of the LCP shows literally all of Zone 12 to be Residential V.

Additionally, the LCP only provided for 2420 new residential units, 75 care units,

1070 new hotel or motel rooms based upon the ability absorb new traffic in the Marina. (See Figure 6 of the LCP)

The Staff Report has not addressed whether such "caps" have been exceeded by the projects which have received permits since 1996 through the present and projects which are presently applying for permits. If the "cap" has been exceeded, no permit should be given to anyone under the present LCP. Information obtained from the Department of Beaches and harbors indicates that approximately 1,700 new residential units and approximately 1,000 new hotel rooms are being developed. This number of new permits combined with the already developed residences and hotel rooms since 1996 may well have exceeded the cap, or approached it so as to not allow 544 new units.

Additionally there are "caps" on new "Visitor Serving Commercial (206,500 retail sq. ft.), restaurant seats (1875) and office space (58,000 sq. ft.) which will also impact traffic. (See Figure 6 of the LCP)

If any of these caps are presently exceeded or plans exist to exceed such, the permit should not be granted as it would violate the "total cap" of the LCP.

The Wind Impact Has Not Been Fully Assessed

The LCP states as follows in relevant part at page 9-6, paragraph 9:

> Development shall not significantly increase infringements of wind access for boats in their berths, the fairways and the main channel. ....Development shall only be approved if all identified significant adverse impacts, including cumulative impacts of a pattern of higher buildings, are fully mitigated.

Neither the Staff Report nor the EIR Addressed these issues.

Earthquake Safety and Liquefaction

The LCP at page 10-5, paragraphs 2-3 requires "thorough site specific geologic and soils studies" and "engineering mitigation and structural set backs shall be designed for a bedrock acceleration of no less than 0.5g and a high potential for liquefaction."

The Staff Report does not assess the failure of the EIR to respond to these requirements. In particular, neither the EIR nor the Staff Report respond to the issue of the

placement of the structure and the height of the structure and the possibility that an earthquake may cause the structure to collapse on the buildings of Marina Strand Colony II.

The Development Cannot Be Approved Unless Traffic Mitigation Has Occurred.

The LCP at pages 11-19 to 11-20 paragraph (d) prohibits development internally in the Marina unless the traffic improvements are constructed before the development is occupied.

The paragraph states:

> Development shall not be permitted to exceed the corresponding phase of road improvements.

Under this criterion, the permit cannot be presently issued, as the traffic improvements have not been made. It should be noted that Lincoln Blvd. and the intersections of Bali Way, Mindanao Way, and Fiji Way are within the County unincorporated area according to Figure 10 and Map 25 of the LCP.

At the Sub Regional Traffic Level, the Permit Cannot Be Issued If the Number of Trips Exceeds 50% of the Total Anticipated "New Trips" for the Whole Marina, until a "Traffic Improvement on the Approach Roads Has Been Approved and Funded. "

The LCP at page 11-19 to 11-20, paragraph (e) requires a phasing schedule for all development in the Marina and a traffic improvements schedule. Such paragraph states in relevant part:

> However, if the trips generated by the development along with other previously approved development will exceed 50 percent of the total anticipated additional external trips to be generated by new or intensified Marina del Rey development, **additional development that generates external trips shall not occur until a traffic improvement on the approach roads that will mitigate those trips has been approved and funded by the appropriate agency.** (Emphasis added.)

The Staff Report does not address this issue. At present, it appears that the number of new trips from all of the new development will exceed 50% of the total anticipated new trips, and thus the permit cannot issue, based upon the residential units and hotel rooms presently in development and those which have been developed since 1996..

The Staff Report must address this issue as required by the LCP. Further, even if independent contracts exist to make the improvements, the development is still contingent upon the road improvements being made by the developer.

The Staff Report and the EIR Do Not Address Asbestos.

The destruction of the Del Rey Shores will release asbestos in the air. This issue is not addressed in the EIR or Staff Report.

The Adequacy of the Sewer System Has Not Been Addressed.

The LCP at page 12-1 states that the Sewer System consists of 8, 10, 12, and 15 inch lines extending around Via Marina, Admiralty Way, and Fiji Way with 8 inch lines extending into the moles. This system may not be adequate to service all of the development since 1996. The EIR and the Staff Report do not discuss the adequacy of the Sewer System to meet the needs of the combined development with the Shores Project.

The Adequacy of the Water System Has Not Been Addressed.

The LCP stated at page 12-2 that as of 1996:

> The present water usage in the Marina is near the entitlement limit, and thus surplus water is not available to serve significant new developments within the Marina.

The Staff Report does not discuss this overall problem. The 1996 entitlement provided for a capacity of 5 cubic feet per second for the entire Marina. Water enters through a 14 inch service line at Washington and Palwan Way. The Staff Report does not discuss if these facilities are sufficient for all the development which has occurred and is taking place including the Shores Project. Further, the Staff Report does not discuss the size of the water lines in the Marina and whether they are of sufficient size to meet the present need.

Developer to Pay for Expanded Water and Sewer Needs.

The LCP states at page 12-5 paragraph 4. as follows:

> In cases where existing unused capacity cannot meet increased demand, developer-financed improvement of existing water and /or sewage facilities shall be required before new development and or/intensification can proceed.

The Staff Report has not addressed this issue.

The Shores Project Is Not Providing a Significant Economic Benefit to the County as it Is Underpaying the County and Taxpayers $383,601.00 per Year in Rent.

Table I of the January 6, 2006 Kester Marston Associates Memorandum attached to the Department of Beaches and Harbors January 18, 2006 letter to the Regional Planning Commission shows the County receiving $1,645,900 in ground rent in the year 2010 representing 10.5% of the gross rental income under the lease with the County.

According to the Department of Beaches and Harbors January 18, 2006 letter, the developer's return on cost should be 10%. The current Market Value of the land under the Lease is $60.00 to $62.00 per square foot according to Exhibits II and III to the County's In-Lieu Fee Policy of June 17, 2002. At the lower County rate of $60.00 per square foot or $2,713,600.00 per acre, the 8.31 acres is worth $22,550,016.

In 1991, Stephen Dietrich, a Santa Monica real estate consultant who testified before the Small Crafts Harbor Commission in opposition to long lease extensions as occurred under the Lease here, told the Los Angeles Times in an interview published December 21, 1991, "Under widely accepted practices in the commercial real estate business, **a fair minimum return to a landowner is 8% to 9% per year of the value of the land.**" (Emphasis added.)

Under this "practice", at 9% per year, the County and the taxpayers of Los Angeles County should receive a minimum of approximately $2,029,501.44 per year as land rent under the Lease instead of $1,645,900.00. The County and taxpayers are being underpaid by $383,601.00 per year.

We thank the Commission for the opportunity to present these views.

Sincerely,
Law Offices of Richard I. Fine & Associates

By: _____
Richard I. Fine

21842wpd/t7a

Erma D. Darling
5100 Via Dolce Ave. #311
Marina del Rey, Ca. 90292
310 821 0271 fax 310 821 2981

Feb. 25, 2006

Mr. Rick Kuo
LA Co. Dept. of Regional Planning
320 West Temple St.
LA, Ca. 90012

Re: Proposal of project "The Shores"

As a resident of Marina del Rey at 5100 Via Dolce Ave. MDR since 1978 there have been many changes. I appreciate the fact that the area must grow to accommodate the influx of persons desiring to live in the marina and to replace the aging structures.

Please consider reducing the heighth and density of the project to allow the present residents less congestion than the proposed project. Traffic is a major problem.

With more projects such as hotels and residential complexes in the future planned for the area, traffic on Via Marina will be much worse.

Thank you.

Sincerely,

Erma D. Darling

Erma D. Darling

Ken Hoover
311 Bora Bora Way #317
Marina del Rey, California 90292

RECEIVED
FEB 22 2006

February 19, 2006

Re: The Shores Project #R2005-00234-(4)

Dear Mr. Kuo:

I'm writing to express my opposition to The Shores Project at Via Marina and Marquesas Way in Marina del Rey. It is too big.

I've been a Marina del Rey homeowner and resident for nearly six years. I'm aware of several proposals for commercial and residential development in the area. Most of them will be significant improvements. But I'm worried about some plans to dramatically increase density and size.

I'm the first to agree that the current apartment buildings on the site should be demolished. But the proposed replacements are too big and too dense. It's my understanding the proposed buildings would be five stories over two stories of parking (with one story of parking below grade). It would be home to nearly 1,000 people and roughly the same number of vehicles. There's already too much traffic on Via Marina at some times of the day. The traffic around Washington Boulevard, Admiralty Way, Palawan Way and Via Marina is appalling.

Also, these structures would dwarf most of the surrounding residences.

I'm sorry the county approved a recently constructed apartment building at the southeast corner of Via Marina and Bora Bora, across the street from me. It's another example of a building that dwarfs surrounding residences.

There's another reason I'm concerned about the construction of big buildings in the Marina. I enjoy sailing, and it's pretty hard to sail with lots of big buildings blocking the prevailing westerly wind.

I urge that the Shores Project as currently proposed be rejected.

Sincerely,

Ken Hoover

#7

RECEIVED
FEB 28 2006

February 26, 2006

Mr. and Mrs. Al Hains
4600 Via Dolce
No. 318
Marina del Rey, CA 90292

Mr. Rick Kuo
Department of Regional Planning
County of Los Angeles
320 West Temple Street
Los Angeles, CA 90012

Re: The Shores, Project # R2005-00234-(4)

Dear Mr. Kuo:

We are homeowners, for 19 years, of a condominium in the Via Marina Tahiti development within blocks of the proposed Shores Project. We are opposed to the size of the proposed Shores Project and are very concerned about the impact it will impose on our beautiful community.

The existing apartments at the proposed location are very old and in disrepair. It is obvious that they should be replaced or, better yet, refurbished and upgraded as the developments to the North of this location have been successfully done.

To replace the existing two story complex with a 100 foot high complex containing more then double the existing units and increasing the available parking from the current 181 spaces by over five times to 816 spaces is beyond reasonable and is not acceptable. The Marina area is already swamped with vehicle traffic and more over sized apartment complexes are already either being built or in the planning stage. The Marina does not need more monster complexes. The Marina needs reasonably sized complexes. The proposed Shores Project must be down sized and the height dramatically reduced.

We ask that you support the concerns of those of us who reside in the Marina and adjacent areas. It is time for our County representatives to start listening to us. Our current quality of life is in jeopardy.

Thank you for your time, consideration and support.

Ellen R. Hains
Al Hains

Al and Ellen Hains

Shelley Morgan
3656 Via Dolce
Marina Del Rey, CA 90292

RECEIVED
FEB 28 2006

Mr. Rick Kuo
Los Angeles County Board of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Dear Mr. Kuo,
I reside at 3656 Via Dolce, Marina Del Rey. My townhome is a part of the Marina Strand Colony II condominum complex. I have written before about my concerns regarding the construction of "The Shores" Project.

This letter accompanies photos I took trying to exit the North driveway of our complex. As stated previously, we are located on a curved street and the parked cars make our exits a challenge. A heavy increase in traffic, which will be caused by the increased density of The Shores will make our exits not only challenging, but dangerous.

The current design of The Shores appears to call for many of their residents exiting on Via Marina which is a one way northbound street, causing them to turn right on Marquesas Way and right again on Via Dolce to exit to Washington Blvd. and leave the area.

The photos indicate how far we have to inch onto Via Dolce to see around the parked vehicles and be able to judge oncoming traffic.

Thank you for your consideration.

Sincerely,

Shelley Morgan

Shelley Morgan
310-305-0112
sgwmorgan@aol.com

cc: Councilman Bill Rosendahl
Supervisor Zev Yaroslavsky

Twila S. White, Esq.
3616 Via Dolce
Marina Del Rey, California 90292

RECEIVED
FEB 28 2006

February 25, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3616 Via Dolce, Marina del Rey, CA 90292.

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant adverse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem.

Our proposed solution is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features, reduce the number of units of the Shores Project, and insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for your consideration of this matter.

Sincerely,

Twila S. White, Esq.

cc: Councilman Bill Rosendahl
Supervisor Zev Yarolslavsky

#7

RECEIVED
FEB 28 2006

February 26, 2006

Mr. and Mrs. Al Hains
4600 Via Dolce
No. 318
Marina del Rey, CA 90292

Mr. Rick Kuo
Department of Regional Planning
County of Los Angeles
320 West Temple Street
Los Angeles, CA 90012

Re: The Shores, Project # R2005-00234-(4)

Dear Mr. Kuo:

We are homeowners, for 19 years, of a condominium in the Via Marina Tahiti development within blocks of the proposed Shores Project. We are opposed to the size of the proposed Shores Project and are very concerned about the impact it will impose on our beautiful community.

The existing apartments at the proposed location are very old and in disrepair. It is obvious that they should be replaced or, better yet, refurbished and upgraded as the developments to the North of this location have been successfully done.

To replace the existing two story complex with a 100 foot high complex containing more then double the existing units and increasing the available parking from the current 181 spaces by over five times to 816 spaces is beyond reasonable and is not acceptable. The Marina area is already swamped with vehicle traffic and more over sized apartment complexes are already either being built or in the planning stage. The Marina does not need more monster complexes. The Marina needs reasonably sized complexes. The proposed Shores Project must be down sized and the height dramatically reduced.

We ask that you support the concerns of those of us who reside in the Marina and adjacent areas. It is time for our County representatives to start listening to us. Our current quality of life is in jeopardy.

Thank you for your time, consideration and support.

Ellen L. Hains
Al Hains
Al and Ellen Hains

Shelley Morgan
3656 Via Dolce
Marina Del Rey, CA 90292

RECEIVED
FEB 28 2006

Mr. Rick Kuo
Los Angeles County Board of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Dear Mr. Kuo,
I reside at 3656 Via Dolce, Marina Del Rey. My townhome is a part of the Marina Strand Colony II condominum complex. I have written before about my concerns regarding the construction of "The Shores" Project.

This letter accompanies photos I took trying to exit the North driveway of our complex. As stated previously, we are located on a curved street and the parked cars make our exits a challenge. A heavy increase in traffic, which will be caused by the increased density of The Shores will make our exits not only challenging, but dangerous.

The current design of The Shores appears to call for many of their residents exiting on Via Marina which is a one way northbound street, causing them to turn right on Marquesas Way and right again on Via Dolce to exit to Washington Blvd. and leave the area.

The photos indicate how far we have to inch onto Via Dolce to see around the parked vehicles and be able to judge oncoming traffic.

Thank you for your consideration.

Sincerely,

Shelley Morgan

Shelley Morgan
310-305-0112
sgwmorgan@aol.com

cc: Councilman Bill Rosendahl
Supervisor Zev Yaroslavsky

Twila S. White, Esq.
3616 Via Dolce
Marina Del Rey, California 90292

RECEIVED
FEB 28 2006

February 25, 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3616 Via Dolce, Marina del Rey, CA 90292.

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. These are significant adverse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem.

Our proposed solution is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features, reduce the number of units of the Shores Project, and insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for your consideration of this matter.

Sincerely,

Twila S. White, Esq.

cc: Councilman Bill Rosendahl
Supervisor Zev Yarolslavsky

LEGAL AID FOUNDATION OF LOS ANGELES

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Los Angeles, CA 90019-3111
(323) 801-7989

Writer's Direct Dial Number (213) 640-3897

sbrowne@lafla.org

February 27, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Revised Comments Regarding Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this revised letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, the Western Center on Law & Poverty (WCLP), in opposition to the request to allow payment of fees in-lieu of providing affordable housing units at Del Rey Shores.

LAFLA, WCLP and POWER are intimately familiar with the State's Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in our favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with us in 2001 and adopted Interim Administrative Procedures for Complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One case in particular involved a proposed 298 unit development in the Marina Del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 on-site very low-income apartment units or 27 on-site very low-income condominium units, despite the fact that the developer had the additional expense of creating a $5 million access road. Importantly, Trammell Crow was able to meet its on-site affordable housing obligations at this development without taking advantage of a density bonus.

I. The State Mello Act Requires Replacement of Affordable Units that are Demolished in the Coastal Zone. The County Must Determine Whether any Low or Moderate Income Households Currently Reside at the Existing Development.

The Mello Act prohibits the conversion or demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." Gov't Code 65590(b). At Del Rey Shores, the developer is proposing to demolish a 202-unit apartment complex. However, the staff report does not contain any discussion regarding the economic status of the current residents. If low or moderate-income households currently reside at any of the 202 currently existing units, those units must be replaced. Although the developer stated, at the January 25, 2006 hearing before the Regional Planning Commission, that the existing Del Rey Shores units are market rate units, this does not answer the question as to whether there are tenants of low or moderate income residing in those units. The developer and the County are required to examine the incomes of existing tenants, not rent levels, in making a determination as to whether replacement housing is required.

With respect to the location of required replacement units, the Mello Act provides, "Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.* The replacement units must be net, new. Venice Town Council. 47 Cal.App.4th 1547.

The Regional Planning Commission cannot approve demolition of the 202 units currently located at the site of the proposed development without first determining whether any of these households are of low or moderate-income. To do otherwise would violate the Mello Act's replacement housing requirement.

II. The State Mello Act Does Not Allow Developers to Pay In-lieu Fees for Inclusionary Units unless it is Infeasible to Provide Even One Affordable Unit On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . . " CA Gov't Code Sec. 65590(d) (emphasis added). Pursuant to the Mello Act, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

While the Mello Act specifically contemplates in-lieu fees for replacement units, it does not do so for inclusionary units. With respect to replacement units, the Mello Act provides:

> The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished units is feasible, in which event replacement dwelling units shall be required:
>
> The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subsection.

CA Gov't Code Sec. 65590(b) and (b)(4).

The Mello Act does not contain a similar provision regarding in-lieu fees for inclusionary units. The Mello Act, therefore, does not allow in-lieu fees for inclusionary units unless it is infeasible for the developer to provide even one affordable unit on or off-site. The County's Affordable Housing Policy violates the Mello Act, as it allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible. The developer's request to pay an Affordable Housing In-Lieu Fee for Del Rey Shores should be denied, as it is feasible for the developer to provide 50 affordable units on-site as is discussed in Section III below.

III. If the County Reduces its Ground Lease Rent by 52%, as it is Required to do Pursuant to its Affordable Housing Policy, it is Feasible for the Developer to Include 50 Affordable Units On-Site at the Proposed Development.

As is discussed later in Section VI of this letter, it is feasible for the developer to fully comply with the County's Affordable Housing Policy, by providing 10% on-site affordable units (55 affordable units), if a more accurate methodology and threshold are utilized for analyzing feasibility. Nonetheless, even if KMA's proposed methodology and threshold are utilized, it is still feasible for the developer to nearly fully comply by providing 50 on-site affordable units (9.2%) if the County reduces its ground lease rent as it is required to do under its Affordable Housing Policy.

The County determined in its Affordable Housing Policy that a reduction in ground lease rents of 53% or more would make a project infeasible. (Policy at p. 11). Accordingly, a project is feasible for the County with a rent reduction of 48% or less. As KMA's Table 1 shows, the ground lease payment is currently set at 10.5% of the net rental income. Therefore, an acceptable ground lease rate is 5.04% of the net rental income (48% of 10.5%). As shown in KMA's Table 1, the net rental income is $15,675,100. Therefore, the County can feasibly reduce the ground lease to $790,025.

As KMA indicates in Table 2, the developer could feasibly include 10% affordable units on-site if the County reduced the ground lease payment to 4.4% of the net rental income or to $689,700. However, as noted above, the County considers infeasible a rate below 5.04% of the net rental income. Comparing the feasible ground lease rate of $790,025 to $689,700, results in a difference of $100,325 a year in lease payments.

Based on KMA's Table 1, the market rate unit rents average $32,900/year in rent (to be adjusted for 5% vacancies) ($16,087,900 divided by 489 units). The affordable units average $7120/year ($391,600 divided by 55 units). We can calculate the increase the developer would get for switching one of the 55 affordable units to market rate by multiplying 95% with the average market rate rent minus the average affordable unit rent. In other words, each switch equals (.95)($32,900) - $7120 = $24,135/year. A switch of five affordable units produces $120,675 – more than sufficient to make up the $100,325 gap. Therefore, inclusion of 50 affordable units on-site is feasible. Since it is feasible for the developer to include affordable units at its development, the developer's request for an in-lieu fee should be denied. If the County grants the developer's in lieu fee request, the County will be in violation of the Mello Act.

IV. The Developer has not Adequately Studied the Feasibility of Providing Affordable Units Off-site.

Another important reason not to grant the developer's request to pay an in-lieu fee is that the developer has not studied the feasibility of providing affordable units off-site. Although the County's Affordable Housing Policy allows developers to pay in-lieu fees where inclusion of on-site units is infeasible, the Mello Act does not permit payment of in-lieu fees unless it is infeasible to provide even one affordable unit *either on or off-site*. If on-site affordable units are infeasible, the Mello Act provides that "the local government *shall* require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof." The County's Policy, therefore, conflicts with the requirements of the Mello Act. The developer's in-lieu fee request cannot be granted by the County unless it is infeasible to provide any affordable units, either on-site *or* off-site.

In the present case, although KMA briefly discusses the developer's obligation to determine whether off-site units are feasible, KMA merely mentions an informal and outdated study (three years old) to conclude that off-site units are not feasible. Because it is the developer's obligation

under the Mello Act to show that off-site units are not feasible, the developer must undertake further analysis regarding this matter.

V. The Developer Misunderstands the Purpose of the Mello Act and Miscalculates the Number of Affordable Units that can be Built Off-site with a $3.8 Million In-Lieu Fee.

In its In-Lieu Fee Application, dated Nov. 17, 2005, the developer alleges that it should be allowed to pay an in-lieu fee because the fee can be leveraged to provide a greater number of housing units elsewhere within the County. This argument runs counter to the *entire* purpose of the Mello Act, which is to prevent the coastal zone and surrounding areas from becoming gentrified. The Mello Act is not about getting the most bang-for-your-buck, but instead about ensuring that coastal areas are inhabited by those with varied incomes.

Moreover, the developer grossly miscalculated the number of affordable units that could be provided off-site with a $3.8 million in-lieu fee. Contrary to the developer's contention that $3.8 million would create 63 off-site affordable units, such an in-lieu fee would actually only create 17-18 units of off-site affordable housing. The developer inappropriately inflated the number of units that could be created with an in-lieu fee by assuming that it would be combined and leveraged with other public funding sources (e.g., tax credits, bond financing, etc).

The developer was wrong to calculate the benefits of its proposed in-lieu fee in combination with other funding sources for two reasons. First, in-lieu fees in and of themselves should be sufficient to create an entire affordable unit. According to a study commissioned by the City of Los Angeles regarding the Mello Act, HR&A (the City's consultant) estimated that the total in-lieu fee subsidy required for a low-income unit in the coastal area at about $215,000. Therefore, an in-lieu fee of $3.8 million would only provide 17-18 affordable units off-site. Even if the County used the in-lieu fee to build off-site affordable units outside the coastal zone, the County would not be able to build the 50 affordable units that are feasible if the developer includes the affordable units on-site at the proposed development. The second reason the developer erred in calculating the benefits of its proposed in-lieu fee is that the developer asserts many times in its in-lieu-fee application that tax credits, public bond financing and other public revenues are very competitive and difficult to obtain. Assuming this is true, the developer cannot assume that the County could easily leverage its in-lieu fee.

VI. The Developer's Feasibility Analysis Relies on Incorrect Assumptions and Flawed Methodologies to Reach Erroneous Conclusions about the Feasibility of Mello Act Compliance.

The developer submitted an in-lieu fee application dated November 17, 2005 alleging that it is infeasible to provide affordable units on-site. However, our independent financial analysis reveals that 10% on-site affordable housing is, in fact, feasible at the project. In our work with the City of Los Angeles, we have provided numerous submissions regarding feasibility standards. Dr. Neil Mayer, of Neil Mayer and Associates, is an expert in the real estate development field

and has reviewed the developer's feasibility analysis and the County's Policy. His independent analysis concludes that the developer's study relies on flawed assumptions and ignores important factors related to feasibility. Dr. Mayer has also concluded that County's Policy should be revised using alternative methodologies and thresholds. (The resume of Dr. Mayer is included as Attachment A).

A. Density Bonus

The developer's analysis of the feasibility of on-site affordable units assumes no density bonus will be allowed by the County. This means that each affordable inclusionary unit added means one market rate unit is eliminated, along with the profit and value it would generate. Yet, density bonuses are allowable by state law for projects that include on-site affordable units. This bonus is extremely valuable because, in essence, it allows adding market rate units at no additional land cost. The developer argues that it cannot take advantage of a density bonus because the County rejected its original plan to build a 780-unit project. However, adding 55 additional units to the currently proposed 544-unit complex equals only 599 units. The developer has provided no analysis as to why a 599-unit complex is not feasible, especially given the fact that State density bonus law and the Mello Act entitle the developer to a density bonus. Gov't Code § 65915 *et seq.* Because such an analysis has not been provided, the developer's request to pay an in-lieu fee must be denied, as the County's Affordable Housing Policy requires that such an analysis be provided.

B. Threshold

Use of a more accurate rate of return standard allows for full on-site Mello Act compliance. As noted above, KMA uses the feasibility threshold of 8% return on total development cost (NOI/TDC). Even if one agrees to a feasibility standard based on unleveraged return on total development cost, 8% is too high of a threshold. KMA calculated its 8% threshold by starting with a 6.5% rate for standard apartment projects. KMA then adjusts the rate upward by 150 basis points, to 8.0%, to compensate for: (1) the fact that the project can expect less appreciation than a fully market rate project because some units are rent restricted; and (2) the fact that the land will be leased for less than 60 years as opposed to fee simple ownership by the developer.

The 150 basis points adjustment far exceeds what is justified by the conditions of the project at hand. A more accurate adjustment would be less than 20 basis points, yielding a return on development cost of 6.5% + 0.2% = 6.7%. Using a feasibility cut off of 6.7% makes the project highly feasible even with a 10.5% lease rate and 10% affordable units on-site.

There are two reasons a smaller adjustment in basis points is warranted. First, consider the appreciation issue. KMA asserts (p.2) that a project with **100%** affordable units will have return requirements that are 100 basis points higher than market rate because of limited potential for appreciation. Yet, the Shores is only required to have 10% affordable units. The 90% market rate units can be expected to provide roughly 90% of the appreciation of a fully market rate project, simply because 90% of the units can obtain increased rents in the market as in the 100% market

rate project. Thus, the appreciation-related adjustment for this project should be only 10% of 100 basis points, or 10 basis points.

Second, consider the lease issue. KMA states that the project will have a lease term of less than 60 years. The disadvantage of a ground lease, as opposed to fee simple ownership, is that the developer (or some future owner of the improvements) may not be able to obtain the potential net income that would accrue after the lease expires. Suppose we assume the extreme case that the developer in this case receives no further income or capital payment for the apartments after 60 years. Although apartments of this nature usually do not exist for more than 60 years, to be conservative, we compared the 60-year stream of net operating income received in the leasing case with 100 years of revenue in the land ownership case. We computed the present value of the 60 year stream of fixed NOI and compared it with that of the 100 year stream, using a discount rate of 8% (KMA's rate of expected return on real estate projects). The 60 year leasehold yields a present value that is 99% of the 100 year level. That percentage falls only very slightly if the land ownership project is assumed to last even longer than 100 years. Thus, the developer should seek a 1% higher return rate, at the most, for a project with a 60 year lease. Even assuming the 1% is 1% of an 8% base return, this is only 8 basis points.

Based upon the above analysis, a good estimate of the premium for a 10% affordable land lease project would be about 18 (10 + 8) basis points, or a little more if the lease is a little shorter than 60 years. Starting with KMA's 6.5% rate for standard apartment projects, an 18 basis point (1.8%) addition yields a feasibility threshold of 6.7%.

KMA, in its Table 1, finds that the Shores project with 10% low-income units and a full 10.5% land lease rate yields a 7.3% return on cost. This substantially exceeds the 6.7% figure and clearly indicates feasibility for the project. The 7.3% figure would allow for an 80 basis point adjustment for the project's specifics, while still keeping the project feasible—four times what we calculate as economically necessary.

In fact, we need only reduce the KMA adjustment for appreciation and leasing by a tiny amount, from 150 to 143 basis points, to make the project feasible at a reduced land lease rate (to the required 48%). Even if one disagrees with our 18-basis point computation[1], it is easy to see that a minor reduction in KMA's assumption by at least 7 points is more than warranted.

C. Methodology

The feasibility measure that KMA utilizes (and which is referred to in the County Policy) is an incomplete and inferior way to measure feasibility, which therefore results in an inappropriately high rate of return as a feasibility standard. KMA uses NOI/TDC as its return measure, neglecting the appreciation real developers expect in addition to annual income and neglecting the borrowing that real developers use to finance much of their project costs. A more complete and

[1] For example, one might argue that inflation increases the basis point.

accurate way of assessing return on an apartment development is to undertake an Internal Rate of Return analysis, which is a two step analysis:[2]

- To value the structure as if it were being sold shortly after stabilized occupancy, based on its current income and the capitalization rate that reflects the market's assessment of the value of the income stream; and secondly
- To assess profitability in terms of the profit gained by the excess of sales value over total development cost, compared to the funds actually invested by the developer (equity, not borrowed funds).

The 8% NOI/TDC standard that KMA uses as a feasibility cut-off translates into a 70-80% return on invested equity at sale. This is far more than is necessary to encourage developers to invest and further evidences that 8% is much too high a cut-off. As we have already noted, a small reduction in the cut-off standard to 7.3% makes the project feasible with the full County ground lease rents and 10% on-site affordable unit requirement.

D. Financing Options

1. Tax-Exempt Bond Financing

The developer and KMA do not include the option of using tax exempt bond financing to mitigate the inclusion of affordable on-site units. Tax exempt bonds are state-issued borrowings that have interest rates below those in the normal market because interest earned by bond buyers is exempt from state and federal taxes. By producing 20% very low-income units on-site, the developer would be eligible for such financing for the entire (100%) project.[3] These bonds are currently available on a noncompetitive basis[4] from the California Debt Limit Allocation Committee, so that the developer could be confident of obtaining the loan. The bond financing would reduce the effective interest rate by about 1%, or about 15% savings in construction financing costs, and about 12%-15% more in permanent financing. These savings easily outpace any cost increase associated with prevailing wage requirements, which practitioners in the field estimate would only increase construction costs by 3% - 5% at the proposed development.

2. Tax Credit Financing

The developer's application dismisses the option of using 4% tax credit equity financing if it produces 20% very low-income on-site units. These credits are automatically awarded to the affordable units once a tax exempt bond allocation is given. This would bring $80,000 -

---

[2] The City of Los Angeles Housing Department (LAHD) concluded that Internal Rate of Return was the appropriate methodology for evaluating feasibility of Mello Act compliance at the Trammel Crow residential development in the Marina Del Rey submarket. LAHD's two reports regarding the Trammel Crow development are attached to this letter as Exhibits B and C. There is an extensive discussion regarding feasibility methodologies and thresholds on pages 2-3 of Attachment B.

[3] That would involve exceeding the County's 10%. The extra 10% would need to be affordable to people at 60^ of area median income.

[4] In 2004, all projects that requested bond allocation received them.

$100,000 of equity for each affordable unit, or up to $6,000,000 for the 20% very low-income option.

This bond/tax credit package is currently non-competitive and under-subscribed. Even if the developer were required to pay prevailing wages on project cost, given that labor is only part of construction cost, prevailing wages would only raise project costs by 3%-5% on a project of this size. Therefore, bond and tax credit financing would still provide a substantial net decrease in overall project costs.

VII. There is no Evidence to Support the Developer's Contention that Providing Affordable Units On-Site Would Reduce County Services to Low-income Residents.

The developer provides no evidence to support its contention that a reduction in the rent it pays to the County would result in a reduction in services to low-income residents. Although on-site housing may require a reduction in rent paid to the County, there is no reason to believe that the County would use this as a basis to reduce services to low-income residents.

Moreover, it is extremely paternalistic of the developer to allege, as it does in its in-lieu fee application, that lower income residents of Los Angeles County will be better served by payment of an in-lieu fee for the Shores. Our Client, POWER, is a community based organization in the Marina Del Rey/Venice area whose members are primarily low-income residents of those neighborhoods. POWER has consistently taken the position that creating on-site affordable housing units at coastal developments is more important than obtaining an in-lieu fee that could create more units off-site. POWER understands well that the purpose of the Mello Act is to ensure that beach communities are enjoyed by those with varied incomes. POWER, accordingly, takes issue with the developer's allegations regarding what is best for its members.

VIII. Conclusion

For the reasons set forth above, the Commission should: (1) continue any decision regarding demolition of the existing building until a replacement housing analysis can be undertaken to analyze the incomes of current residents to determine if any are of low or moderate-income; and (2) deny the developer's application for an in-lieu fee because provision of affordable units on-site is feasible.

Thank you for your consideration of our comments.

Sincerely,

Susanne Browne
Attorney at Law

Attachments

ATTACHMENT A

NEIL S. MAYER
Neil Mayer & Associates
1309 Solano Ave., Suite B
Berkeley, CA 94706
(510) 528-1071

EDUCATION:

PhD, Economics, University of California, Berkeley.

B.A., Economics, Harvard University.

EXPERIENCE:

Principal Professional Positions

President, Neil Mayer and Associates, January 1981 to present.

Undertake housing, economic development, and community development projects that focus on benefiting low-income people, as consultant to private and public sector clients. Projects in areas of research, policy analysis, program development and design, evaluation, and technical assistance and implementation.

Senior Project Manager, Center for Community Change, January 1995 to December 2001.

Projects examining locally generated economic development initiatives that are targeted to serve low-income people and communities by increasing their access to economic opportunity in the wider economy. Technical assistance to community-based organizations carrying out the initiatives.

Director of Community Development, City of Berkeley, CA, January 1991 to January 1995.

Directed staff of 74 in shaping and carrying out all City projects and programs in economic development, housing, community development, and energy. Emphases on expanding opportunities for people in need, while generating resources for community development and other municipal functions.

Assistant City Manager for Economic Development, City of Berkeley, CA, October 1985 to January 1991.

Established new Office as its first director. Overall responsibility for conceptual and program development, management, and hiring and supervision of 20 staff members. Program areas included employment, business assistance, neighborhood revitalization, development impact fees and negotiation, and energy conservation.

Senior Research Associate, The Urban Institute, Washington, D.C., 1977 to 1985.

Responsible for design, conduct, and management of major studies and program development projects in the fields of economic and community development and housing. Emphases on issues of community-based economic development, neighborhood

revitalization, housing rehabilitation and housing costs, and the effectiveness of neighborhood organizations in carrying out housing and economic development projects.

National Science Foundation Resident Scientist, 1980 to 1982.

Analyzed the impacts of growth and revitalization in the housing and broader economic markets in Berkeley, California. Emphasis on how low- and moderate-income people can participate in the benefits of that revitalization.

Economist, Human Resources and Community Development Division, Congressional Budget Office, Washington, D.C., 1975 to 1977.

Responsible for evaluation of budget issues and options in fields of housing, community development, and aid to state and local government -- with emphasis on housing finance and homeownership problems and policies. Activities included research, policy and program analysis, preparation of budget issue papers, and Congressional briefings.

Staff Economist, David Dornbusch and Company, San Francisco, California, 1972.

Conducted research on the economic and environmental impacts of intensive high-rise building development in San Francisco, under HUD research contract.

Teaching

Guest Lecturer in U.C. Berkeley courses in Economics and City and Regional Planning, 1972 to 1975 and 1981 to present.

Subjects included: strategies for local economic development, possibilities of local government assistance for rehabilitation and new construction of housing, the economics of rent control, the role of neighborhood organizations in community development, community participation in master planning.

Trainer in community development, 1996 (continuing), for local government officials, as contractor to HUD.

Lecturer on citizen participation in economic development planning, Czech Republic and Slovakia, 1994.

Related Professional Experience

Member, Local Initiatives Support Corp Advisory Board for Northern California, 1987 to present.

Chair, Bay Area Housing Support Collaborative, 1991 to 1997.

Editorial Advisory Board member, Journal of the American Planning Association, 1988.

Presentations to audiences including Local Initiatives Support Corporation, Local Self-Government Conference in Czech and Slovak Republics, FNMA, National Conference for Urban Economic Development, MIT International Symposium on Neighborhood Policy, American Real Estate and Urban Economics Association.

Expert witness, suits regarding the constitutionality of rent control legislation.

Technical advisor (volunteer) to non-profit community development corporation.

Member of Advisory Task Force on Research in Community Development, AAAS, 1978.

Member of five-person City of Berkeley Housing Conservation Task Force, 1974 to 1975. Task Force was responsible for presenting to the City Council a plan for city-wide municipally-assisted housing rehabilitation.

Chair (1971 to 1973) and member (1973 to 1975), City of Berkeley Housing Committee. Committee was responsible for preparing Housing Element of the Master Plan.

Planning Commissioner, City of Berkeley Planning Commission, 1971 to 1973.

PUBLICATIONS and REPORTS:

"Labor Market Analysis for the Los Angeles County Health Care System," for the Los Angeles Healthcare Workforce Development Program, 2004.

"Revitalizing Neighborhoods through Decentralized Action: the Minneapolis Neighborhood Revitalization Program," 2003.

"Education and Training for Community Developers," for the Ford Foundation, 2003.

"Economic Clusters and Equity," for Ford Foundation/Regional Technologies conference, 2002.

"Local Government's Role in Community Revitalization," with Langley Keyes, for the National Community Development Initiative consortium, 2001.

"Building CDC Capacity in Philadelphia," for the Pew Charitable Trusts,2000.

"Evaluation of the Minneapolis Neighborhood Revitalization Program," with Renee Berger et. al., 2000.

"Assessment of the Neighborhood Improvement Initiative (year 2)," with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1999.

"Saving and Creating Jobs: A Study of Industrial Retention and Expansion Programs," U.S. Department of Housing and Urban Development, 1998.

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"Providing Employment Opportunities for People in Need: The Berkeley Experience," for the James Irvine Foundation, 1997.

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"Assessment of the Neighborhood Improvement Initiative (year 1), with Renee Berger et. al., for the William and Flora Hewlett Foundation, 1997.

"HUD's First 30 Years: Big Steps Down a Longer Road," Cityscape, Vol. 1, Number 3, September 1995.

"Portland Housing and Community Development: Observations and Recommendations," for the City of Portland Bureau of Housing and Community Development, October 1996.

"Options for Area-Focused Grant Making," for the David and Lucile Packard Foundation, October 1996.

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"The Role of Non-Profits in Renewed Federal Housing Efforts," in DiPasquale and Keyes ed., Building Foundations, U. Penn. Press, 1990.

"Berkeley's City Hall Is 'First Source' When Employers Need Workers" and "'Responsible Development' In Berkeley's Durkee Project Also Means Jobs," Western Cities, October, 1989.

"A Strategy for Progressive Economic Development in Berkeley," Planners Network Newsletter, April, 1989.

"Flexible Linkage in Berkeley: Development Mitigation Fees," with Bill Lambert in Arthur C. Nelson, ed., Development Impact Fees, Planners Press, The American Planning Association, Chicago, 1988.

"Taking Another Look at CDC Performance and Potential," Community Development Research Center, New School for Social Research, March, 1987.

"Roles for Progressive Planners in Community-Based Development," in Barry Checkoway, ed., Strategic Perspectives on Planning Practice, Lexington Books, 1986.

"Future Directions for Neighborhood Organizations," the Charles Stewart Mott Foundation, November, 1986.

"Credit Mechanisms in Community Upgrading in Egypt," The Urban Institute, October, 1985.

"The Role of Lending, Race, and Ownership in Rental Housing Rehabilitation," Journal of Urban Economics, May, 1985.

"Obtaining Benefits from Private Development," for City of Berkeley, 1985.

"Action Recommendations for Berkeley Economic Development," with Lenny Goldberg, for the City of Berkeley, 1985.

Neighborhood Organizations and Community Development, the Urban Institute Press, December, 1984.

"Mobile Home Parks Under Rent Stabilization," City of Los Angeles, May, 1985.

"Conserving Rental Housing: A Policy Analysis," Journal of the American Planning Association, Summer, 1984.

"Community Development Block Grants," The Urban Institute, 1984.

"Housing and Community Upgrading for Low-Income Egyptians," with others, U.S. AID, October, 1984.

"A Strategy for Community-Based Economic Development," Presentation to Mayor's Conference on Economic Development, June, 1983.

Federal Housing Policy at President Reagan's Midterm, with Raymond Struyk and John Tuccillo, The Urban institute Press, 1983.

"How Neighborhood Organizations Succeed and Grow," in Clay and Hollister ed., Neighborhood Policy and Planning, D.C. Heath, 1983.

"An Evaluation of the William and Flora Hewlett Foundation Program in Community Development," Parts I and II, reports to the Foundation, 1983.

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"Project Performance by Neighborhood Development Organizations," The Urban Institute, December, 1982.

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"Building Neighborhood Organization Capabilities in Community Development," with Jennifer Blake, The Journal of Community Action, July, 1982.

"Market Study for a Community-Based Energy Business," April, 1982.

Keys to the Growth of Neighborhood Development Organizations, The Urban Institute Press, July, 1981.

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"Federal Home Repair Programs and Elderly Homeowner's Needs" (with Olson Lee), The Gerontologist, January, 1981.

"Grants, Loans, and Housing Repair for the Elderly," Journal of the American Planners Association, January, 1981.

"Helping the Elderly Repair their Homes," HUD Challenge, September, 1980.

"The Growth and Effectiveness of Neighborhood Development Organizations," paper presented to Urban Institute Board of Trustees, April, 1980.

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"Factors in the success of Neighborhood Organizations in Community Development: Interim Report," The Urban Institute, 1979.

"Constructing Longitudinal Data Files of Quarterly Residential Alteration and Repair Activity with Illustrative Computations" (with Jack Goodman), Urban Institute Report, 1132-2, 1979.

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"Design of a Study of Displacement in Neighborhoods Undergoing Private Revitalization" (with Margaret Drury), Urban Institute Report, 1978.

"Determinants of Landlord Housing Rehabilitation Decisions: Empirical Analysis and Policy Evaluation," Ph.D. Dissertation, January, 1978.

"Housing Occupancy Costs: Current Problems and Means to Relieve Them," Urban Institute Report 263-1, 1977.

"Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles," Congressional Budget Office Report, 1976.

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"Impact of Intensive High-Rise Development in San Francisco, California," David Dornbusch and Company contract Report to HUD, 1972.

"Perspective in the Assessment of Large Scale Technology: The Case of the STOL Aircraft System," U.C. Berkeley, Institute of Governmental Studies report to NASA, 1971.

ATTACHMENT B

CITY OF LOS ANGELES

CALIFORNIA

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JAMES K. HAHN
MAYOR

January 10, 2005

Honorable Ed P. Reyes, Chair
Planning & Land Use Management Committee
200 North Spring Street, Room 410
Los Angeles, CA 90012

Attention: Gerald Gubatan, Chief Planning Deputy

RE: Mello Act Feasibility Analysis for Alexan Marina Development

As you are aware, Trammell Crow Residential is in the predevelopment phases of building a new 298-unit residential complex to be known as the Alexan Marina. Because the site is located near Marina del Rey, in a coastal zone, the project falls under the jurisdiction of Mello Act requirements that a portion of the development be held affordable to low-income households.

In June 2000, the City Council adopted Interim Administrative Procedures for implementing the Mello Act requirements. As part of that action, the Council found that *"It is generally feasible for new housing developments consisting of ten or more residential units to provide inclusionary residential units."* New housing developments in the coastal zone, therefore, must comply with the requirement to either (1) reserve at least 20 percent of the units developed for low-income households; or (2) reserve at least 10 percent of the units developed for very low-income households. Under the provisions of the Mello Act, however, developers may appeal the requirement based on a determination that compliance with the Act will render their projects infeasible.

Trammell Crow Residential has appealed, requesting relief from the Mello Act inclusionary requirement, on the grounds that it renders their project infeasible.

The Los Angeles Housing Department (LAHD) has been asked to analyze the proposed Alexan Marina development as a rental project to determine whether it would be financially feasible to bring it into compliance with Mello Act requirements. We have reviewed the appeal documents as well as extensive correspondence from several interested parties. We have reviewed the City's Interim Administrative Procedures as well as the Mello Act statute itself. We have consulted with a number of independent financial

consultants and commercial residential investors. We have run multiple analyses based on multiple feasibility methodologies. Unfortunately, despite this extensive research, consultation, and analysis, it appears to be impossible to draw "black and white," indisputable conclusions about the economic feasibility of including affordable units at the Alexan Marina project. The reasons are many-fold:

- A permanent ordinance for implementation of the Mello Act has not yet been drafted and the Interim Administrative Procedures provide no clear guidance on appropriate methodologies for determining economic feasibility.
- Even experts in the field differ—sometimes radically—on which methodologies are appropriate for evaluating feasibility.
- Even when methodologies are chosen, experts differ—again, sometimes radically—on what are appropriate thresholds of feasibility.
- It is impossible to determine with any certainty how conservative the developer's assertions of total development costs, rents, miscellaneous income, expenses, and investment thresholds might be. Nor can we know with any certainty whether the developer will do a turn-key sale of project or will "build and hold" for a period of years. All of those assumptions have a tremendous impact on the outcomes of the analyses.

By some of the measures that the Housing Department employed, inclusion of the full requirement of affordable units appears to be feasible; by other measures, it does not. (Those methodologies and their outcomes are discussed more fully below.) By all measures, it does appear that Trammell Crow Residential could include some number of affordable units at the Alexan Marina site. Based on our analysis, the Housing Department believes that it would be feasible for the developer to make 18 of the units at Alexan Marina affordable to very low-income families. Because the results are not clear-cut, however, it falls to the City Council to make a policy decision about how much affordability should ultimately be required at Alexan Marina.

Methodologies:

As we understand them, the City's Interim Administrative Procedures for Complying with the Mello Act do not specify a methodology for evaluating the feasibility of development projects. Unfortunately, there are many methods that developers use to determine the viability of their projects and—since real estate investment is more of an art than a science--all of those methods can be manipulated to some extent to provide the "right" answer. So, choosing a methodology for evaluating feasibility can, in itself, be controversial.

LAHD reviewed several possible methodologies and selected two separate measurements. We elected not to use the developer's methodology known as return on total development costs as a measure of feasibility for the reasons described below. As we reviewed the total development costs provided by Trammell Crow Residential, we noted that financing costs of approximately $5.5 million appear in the development budget. In a typical multi-family

residential development, these financing costs would cover a conventional construction lender's fees and construction loan interest. As such, the risk premium for a sizable portion of the development—perhaps as much as 75%—is already factored into the interest rate and fees. In other words, the construction lender who might perhaps be making a $64 million loan on an $85 million project has factored the construction risk, the interest rate risk, the lease-up risk, etc., into the cost of lending $64 million to the developer. To look for a return on the 100 percent of development costs, then, double-counts the risk premium on the borrowed portion of the project costs.

Given that, LAHD selected two measures of project feasibility: return on equity and internal rate of return. Return on equity was selected because it is a well-established measure; it is widely used and understood. It focuses on that portion of the project for which the developer's own cash is at risk. It also has the advantage of requiring the analyzer to make fewer assumptions. If fewer assumptions are required, there can generally be fewer points of contention among disputing parties. So, LAHD selected return on equity as one appropriate measure of feasibility.

Secondly, because (as will be discussed below) the rental analysis is very sensitive to assumptions about capitalization rates, LAHD also used the internal rate of return for the rental scenario as a second measure of feasibility.

Threshold of Feasibility:

We then selected a 15 percent return on equity and a 15 percent internal rate of return as our thresholds for determining project feasibility. We chose 15 percent as the threshold of feasibility because it is a generally accepted minimum in the real estate investment community. Fifteen percent is a higher risk premium for development than the construction lender takes because the construction lender's risk is generally secured by the underlying real estate and because the developer's cash is generally at stake before the construction lender's dollars are at stake.

Unfortunately, here again, there is no definitive authority that would say that a project achieving a 15 percent return on equity is feasible while a project returning a 12 percent return on equity is not. And in a case where a 15 percent return might be acceptable to one investor, a second investor looking at the same project might require 20 percent.

Even if there were a definitive authority to say what the threshold should be today, the threshold would change over time according to economic conditions. To determine what is an acceptable threshold, both the rate of inflation and the rates of return on alternate investments must be considered.

Given current economic conditions and returns available on alternative investments with similar or lesser risk, we believe that 15 percent would be the lower limit at which Trammell Crow Residential would be able to find investors for the Alexan Marina project.

So, LAHD selected 15 percent return on equity and 15 percent internal rate of return as its feasibility thresholds.

Analysis Results: Return on Equity:

LAHD's return on equity analysis of Trammell Crow Residential's rental housing proposal appears in Attachments 1 and 2. The first analysis in Attachment 1 shows that the developer can include 30 units that are affordable to very low-income households and still achieve a 54.8 percent return on equity.

At every turn in this analysis, we attempted to use the most reasonably conservative numbers available. For example, there had been some controversy over whether average market rents were $2,500 per unit or $2,550 per unit; to be as fair as possible to the developer, LAHD used the lower figure. For the market rate scenario, we used the miscellaneous income figure provided by the developer; but for the mixed income scenario, we discounted the figure significantly based on the presumption that very low-income tenants would spend significantly less on amenities. We also used the figures provided by the developer for operating expenses and reserves, even though they appear to be quite generous.

It is important to note that this rental analysis is extremely sensitive to the capitalization rate used to estimate the stabilized value of the project. Even very small changes to the capitalization rate (or "cap rate" as it is often referred to) result in very large changes in the imputed value of the property. For example, in the market rate scenario, lowering the cap rate from 6.38 to 6.0 changes the imputed value from $103 million to $110 million. So, selection of an appropriate capitalization rate for this analysis is critical and has been the subject of much controversy among the interested parties.

In order to ensure that the capitalization rate was fairly selected, LAHD did some independent research. We looked at various real estate market reports specific to the west side of Los Angeles and conducted within the last 3-4 months. In particular, we reviewed reports from Marcus & Millichap, NAI Capital Commercial, the UCLA Richard S. Ziman Center for Real Estate, and Red Capital Group. All of the publications we reviewed indicated that apartment capitalization rates for the west side of Los Angeles were under 6.0 percent. Indeed, some indicated that capitalization rates were in the 5.1 to 5.4 percent range. As additional confirmation, we also asked an appraiser to pull apartment sales comparable data for the Marina del Rey area. Those comparables revealed an average capitalization rate of 5.86% for sales in 2004 and 5.48% for sales within the last 6 months. Moreover, for a new, well-located, Class A apartment building, we would expect that capitalization rates would be even lower. So, we felt safe choosing a conservative capitalization rate for the Alexan Marina project at 6.0 percent. Using this 6.0 percent capitalization rate, our initial analysis showed a return on equity for a rental project including 30 very low-income units at 54.8 percent.

Because a recent letter from the developer showed their estimate of current capitalization rates at 6.38 percent, we used that rate for the analysis presented in Attachment 2. That analysis shows that, even with a more conservative cap rate of 6.38 percent, the mixed-income project still provides a return on equity of 27.2 percent. Thus, it appears from this analysis that the project is feasible with a mix of market-rate and very low-income rental units.

Analysis Results: Internal Rate of Return:

LAHD's internal rate of return analyses of Trammell Crow Residential's rental housing proposal appear in Attachments 3 and 4. Those analyses are much less sensitive to the choice of capitalization rates. Rather, they rely on some further assumptions about how much of the development can be financed, how long the developer will hold the project before sale, and how revenues and expenses change over time. They otherwise use the same assumptions as provided by Trammell Crow.

Our first run of the internal rate of return analysis, as shown in Attachment 3, indicates that the project generates sufficient cash flow to repay the equity invested at an internal rate of return of only 13.5 percent. This internal rate of return does not pass our feasibility threshold. So, in contrast to the return on equity analysis, the internal rate of return analysis shows that it would not be feasible for Trammell Crow to include 30 very low-income units at the Alexan Marina site. So, unfortunately, this additional analysis muddies the waters and makes it more difficult to reach clear-cut conclusions.

We then ran several additional internal rate of return analyses to determine how many affordable units could be supported at a 15 percent IRR. We determined that the maximum number of affordable units that appeared to be feasible under this scenario was 18. (That analysis is shown in Attachment 4.)

So, the return on equity analysis seems to show that the project can support up to 30 very low-income units; the internal rate of return analysis seems to show that the project can support only 18 very low-income units. It appears that the ultimate determination about exactly how many affordable units must be included at Alexan Marina will be a policy decision left to the City Council.

General Considerations:

In making the ultimate determination of affordability levels at Alexan Marina, the Council may wish to take two additional factors into consideration: (1) it cannot be known with any certainty how much cushion the developer may have already factored into the development and operating numbers that they supplied for the project; and (2) both the

Mello Act and the City's Interim Administrative Procedures contemplate some mitigation for the loss of profit attendant to providing affordable units and due to project-specific circumstances, Trammell Crow is unable to take advantage of those mitigations.

Developer's Assumptions: In all of the analyses discussed above, the developer's assumptions for rent and expenses were used. Since several of these assumptions appear to be quite conservative, there seems to be more room for the developer to squeeze more profit out of this project than appears in these attachments. Indeed, $7,000 per unit per year in operating expenses seems very high even for luxury apartments. If those costs can be brought down even to $6,500 per unit per year, IRR increases. In addition, it appears that the project can support more than a 75 percent debt load. Indeed, many conventional lenders will lend strong, sophisticated developers up to 80 percent loan to cost. If they decrease their equity requirements to 20%--down from 25%--IRR increases. Finally, we were also told by at least one investor that we consulted with that miscellaneous income at $70 per unit per month was probably low for a luxury building. They speculated that miscellaneous income is often closer to $100 per unit per month. If we increase miscellaneous income for the project to $100 per unit per month for the luxury units, IRR increases. Indeed, if we use all of these less conservative assumptions together, then the internal rate of return jumps to 16.5 percent even if 30 units are held affordable to very low-income families. Use of these less conservative assumptions, however, is somewhat speculative and is likely to lead to additional controversy

Profit Impact Mitigations: The Mello Act itself, as well as the City's Interim Procedures, both contemplate that developers would be able to take advantage of a density bonus to at least partially offset the loss of profits mandated by Mello Act compliance. Indeed, California Government Code Section 65590 (d) provides that "[i]n order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees." Section 7.1 of the City's Interim Ordinance provides that "[a]pplicants may be entitled to some or all of the incentives set forth in Section 12.22A25 of the Los Angeles Municipal Code, including a Density Bonus."

Joan - not correct [illegible] project [illegible] so specific [illegible]

Unfortunately, it appears that the location of the Alexan Marina project makes it impossible for Trammell Crow Residential to take advantage of a density bonus. More units cannot be added to the Alexan Marina for 3 reasons: (1) the shallow depth of the water table in this area makes it prohibitively expensive for additional height to be added to the building or to put more parking underground; (2) the proximity of single-story single-family homes places overall height limitations on the building and requires higher stories to be set back from the street; and (3) environmental studies for the project concluded that any additional traffic generated from the project would not be possible to mitigate.

So, compliance with the Mello Act affordability requirements will result in a significant reduction of profit to the developer with no mitigation of that reduction from a density

bonus. LAHD estimates that Trammell Crow Residential may face a reduction of profit of as much as $10.9 million as a result of full Mello Act compliance. The Committee may wish to take this unmitigated loss of profitability into account and, as a result, consider some reduction of the number of affordable units required for Alexan Marina.

Conclusions:

Multiple analyses of the Alexan Marina project show mixed results depending on the methodologies used. It does appear that Trammell Crow Residential can reasonably be required to make 18 rental units affordable to very low-income households. Although methodologies and assumptions can continue to be debated and alternative conclusions can be reached, we believe the project is of a large enough scale—even without the advantages of a density bonus—to absorb the burden of including some affordable units.

Yours truly,

MERCEDES MÁRQUEZ
General Manager
Los Angeles Housing Department

Attachments

ATTACHMENT C

CITY OF LOS ANGELES

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JAMES K. HAHN
MAYOR

March 25, 2005

Con E. Howe
Director of Planning
City of Los Angeles
200 North Spring Street, Fifth Floor
Los Angeles, CA 90012

Re: Mello Act Feasibility Analysis for Princeton Condominium Development

Dear Mr. Howe:

As you are aware, Trammell Crow Residential is in the predevelopment phases of building a new 295-unit residential development, which, if chosen to be a for-sale development, will be known as Princeton Condominiums. Because the site is located near Marina del Rey, in a coastal zone, the project falls under the jurisdiction of California Mello Act requirements that a portion of the development be held affordable to low-income households.

In June 2000, the Los Angeles City Council adopted Interim Administrative Procedures for implementing the Mello Act requirements. As part of that action, the Council found the "*it is generally feasible for new housing developments consisting of ten or more residential units to provide inclusionary residential units.*" New housing developments in the coastal zone, therefore, must comply with the requirement to either (1) reserve at least 20 percent of the units developed for low-income households; or (2) reserve at least 10 percent of the units developed for very low-income households. Under the provisions of the Mello Act, however, developers may appeal the requirement based on a determination that compliance with the Act will render their projects infeasible.

Trammell Crow Residential has appealed, requesting relief from the Mello Act inclusionary requirement on the grounds that it renders their project infeasible.

The Los Angeles Housing Department (LAHD) has been asked to analyze the proposed Princeton Condominium development to determine whether it would be financially feasible to bring it into compliance with Mello Act requirements. We have reviewed the appeal documents, the City's Administrative Procedures, and the Mello Act statute itself.

LAHD's analysis indicates that it is not feasible for the developer to include 60 low-income units in the Princeton Condominium development, but that it is feasible for them to include up to 30 very low-income units.

Analysis

The Los Angeles Housing Department created several simple cash flow models that estimate the timing of various expenditures necessary to develop the project and estimate the timing of revenues that would be received from sale of the completed condominiums. Those models were used to calculate an internal rate of return on the developer's assumed equity contribution to the project. The models are attached for your reference as Attachments 4 through 7. (The analyses used to generate some of the revenue assumptions in those models are shown in Attachments 1 through 3.)

In generating these models, we accepted the developer's assumptions for total development costs and the timing of those expenditures because they appeared to be reasonably conservative and supportable. We also accepted the developer's assumptions of the length of the construction period at 18 months and the absorption rate of the market-rate condominiums at 50 units per quarter. Again, these assumptions appeared to be reasonable and supportable.

We did review at length the developer's assumptions of sales prices for the market-rate condominiums since any overly conservative assumptions about sales prices could make the project appear to be less feasible than if more generous assumptions were used. The developer assumed sales prices of $435 per square foot. In order to test these assumptions, we reviewed recent published sales data through Realquest for condominiums sold in Marina del Rey, Playa del Rey, and Venice within the last 2 years. We also reviewed current condominium listings through the Multiple Listing Service for those same areas. The listings data show that the median current list price for a condominium in these areas is $469 per square foot. For condominiums built within the last 6 years, the median list price is $489 per square foot. The actual sales price data indicated that the median sales price for condominiums built within the last 6 years was $459 per square foot. Based on these indicators, LAHD used $459 per square foot as a reasonable indicator of market sales for the Princeton condominiums. (Attachment 1 shows the unit mix and average prices for the various proposed market rate units.)

Sales price maximums for the low- and very low-income units were calculated as shown in Attachments 2 and 3.

The other difference between LAHD's analysis and the developer's stems from a long-standing City policy to require the same proportionality of unit sizes for the affordable units as exists among the market-rate units. (This policy seeks to ensure that affordable units are not skewed towards smaller one-bedroom units, but actually provide a range of opportunities for families of different sizes.) Because the property is proposed to be comprised of 26 percent 1-bedroom units, 62 percent 2-bedroom units, and 12 percent 3-bedroom units, we used those same proportions to determine the unit sizes of the affordable units at the Princeton condominiums.

Results

As noted above, we compiled these assumptions into internal rate of return analyses for the Princeton Condominium project. Attachment 4 shows the internal rate of return calculation for the project with 20 percent of the units held affordable to low-income families at 80 percent of

area median income. That calculation shows that the internal rate of return for the project would be only 13.1 percent. That rate of return is likely too low to be able to attract investors. Thus it is likely that such a project could not be built.

Attachment 5 shows the internal rate of return calculation for the Princeton Condominium project including 10 percent of the units held affordable to very low-income families at 50 percent of area median income. That calculation shows that the internal rate of return for the project would be 19.5 percent. Given current market conditions, it appears that a project with this level of return would be considered at least marginally feasible.

It is important to note that the developer's analysis presumed that 20 percent would be the minimum threshold of economic feasibility. Indeed, they provided multiple letters from investors indicating that they would wish to see internal rates of return of not less than 25 percent. Given the risks inherent in developing large for-sale projects, a rate of return in the neighborhood of 20 percent is not unreasonable. It should also be noted, however, that small changes in the absorption rate—faster sales of the condominiums—or any inflation in the sales prices between now and the date of sale would easily push the internal rate of return above this 20 percent threshold.

Because full compliance levels (with 10 percent of the units (30 units) held affordable to very low-income households) is marginally feasible, this point is likely to be somewhat controversial. For discussion purposes, LAHD also ran internal rate of return calculations at slightly lower proportions of very low-income units at 8 percent (24 units) and 9 percent (27 units) affordable. (These are shown in Attachments 6 and 7 respectively.) These calculations show that with 27 units held affordable to very low-income families it is possible to reach the developer's feasibility threshold of 20 percent.

General Considerations

It should be noted that the Mello Act itself, as well as the City's Interim Procedures, both contemplate that developers would be able to take advantage of a density bonus to at least partially offset the loss of profits mandated by Mello Act compliance. Indeed, California Government Code Section 65590 (d) provides that "[i]n order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees." Section 7.1 of the City's Interim Ordinance provides that "[a]pplicants may be entitled to some or all of the incentives set forth in Section 12.22A25 of the Los Angeles Municipal Code, including a Density Bonus."

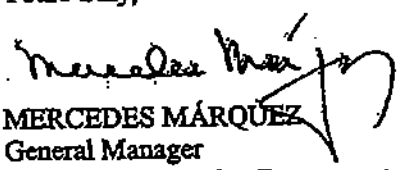
Unfortunately, it appears that the location of the Princeton Condominium project makes it impossible for Trammell Crow Residential to take advantage of a density bonus. More units cannot be added to the Princeton Condominium development for 3 reasons: (1) the shallow depth of the water table in this area makes it prohibitively expensive for additional height to be added to the building or to put more parking underground; (2) the proximity of single-story single-family homes places overall height limitations on the building and requires higher stories to be set back from the street; and (3) environmental studies for the project concluded that any additional traffic generated from the project would not be possible to mitigate.

So, compliance with the Mello Act affordability requirements will result in a significant reduction of profit to the developer with no mitigation of that reduction from a density bonus. LAHD estimates that Trammell Crow Residential may face a reduction of profit of as much as $14.3 million as a result of full Mello Act compliance. The Commission may wish to take this unmitigated loss of profitability into account and, as a result, consider some reduction of the number of affordable units required for Princeton Condominiums.

Conclusions

As discussed above, it does appear to be at least marginally feasible for Trammell Crow Residential to fully comply with Mello Act requirements by providing 10 percent of the units at Princeton Condominiums to very low-income families. Because the project cannot take advantage of any of the incentives generally associated with providing affordable units, however, the Planning Commission may wish to consider some alternative form of mitigation of the impact of full Mello Act compliance.

Yours truly,



MERCEDES MÁRQUEZ
General Manager
Los Angeles Housing Department

Attachments

Su Varadarajan
3712 Via Dolce
Marina del Rey, CA 90292

310-821-2720

RECEIVED
FEB 23 2006

Los Angeles County Department of Planning
Attention: Rick Kuo
320 West Temple Street
Los Angeles, CA 90012

RE: The Shores Project, Project #R2005 – 00234 – (4).

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3712 Via Dolce, Marina del Rey, CA 90292.

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all the structures surrounding it. These other structures are two and three stories high. Our complex, Marina del Rey Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is too high. It will significantly reduce hours of the available direct sunlight on the eastside of our complex. It will also adversely affect the air circulation, which is primarily in the east-west direction coming from the sea or the shore. There are significant averse impacts on the residents of our complex, especially on the east side.

Our recommendation to alleviate these impacts is to limit the height of the Shores Project to 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit from the project to be right turn only onto Via Marina. This would bring most of the traffic to Marquesas Way and to Via Dolce which is in front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly onto Via Marina with a left turn allowed or to reduce the number of units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there are insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more vehicles than parking spaces also park on Via Dolce. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated visitors' parking at the Shores Project.

Thank you for consideration of this matter.

Sincerely,

Su Varadarajan

Su Varadarajan

CC:
Councilman Bill Rosendahl
Supervisor Zev Yaroslavsky

JANET OSGOOD

3856 VIA DOLCE
MARINA DEL REY, CA 90292
(310) 242-5637 • FACSIMILE (310) 242-6137
EMAIL - JANNOSTAR@EARTHLINK.NET

RECEIVED
FEB 27 2006

FEBRUARY 23, 2006

VIA FEDERAL EXPRESS

Mr. Rick Kuo
Los Angeles County Dept. of Regional Planning
320 West Temple St.
Los Angeles, CA 90012

RE: #R2005-00234-(4)
THE SHORES PROJECT

Dear Mr. Kuo,

I am a resident of Marina Strand Colony II, which is behind, or west, of the proposed reference project.

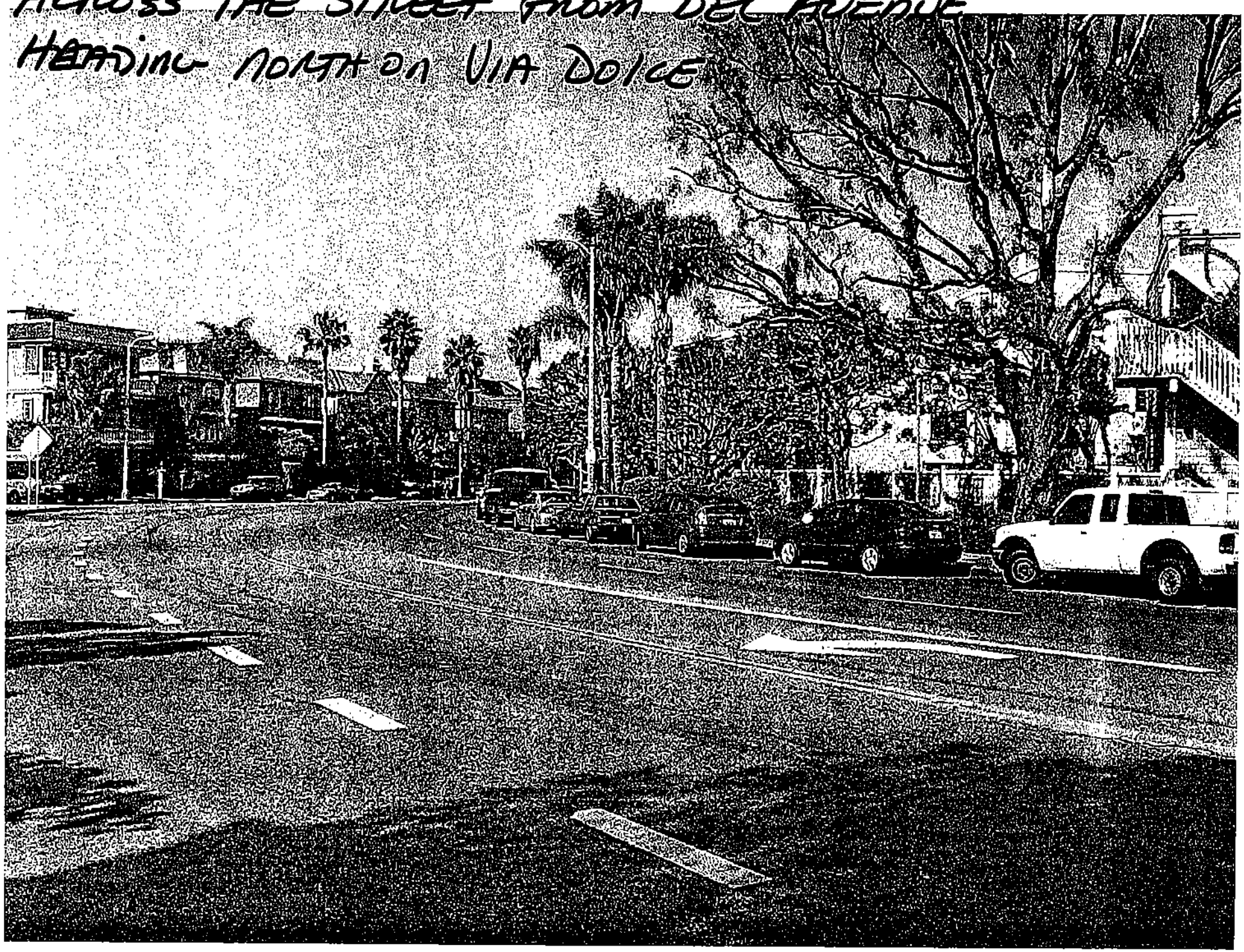
This proposed new complex of approximately 544 apartments concerns us with the increase of traffic down our street of Via Dolce. There will be approximately 600 more cars coming out of this proposed complex then there are now. They will have the option of turning right off of Del Avenue onto Marquesas Way that blends into the blind curve of Via Dolce. Our southern driveway is on this blind curve. We have had a number of accidents with people speeding around the corner and hitting cars as they pull out of our southern driveway.

I have enclosed pictures taken of Via Dolce and the blind curve and would like these taken into consideration for the meeting on March 1, 2006.

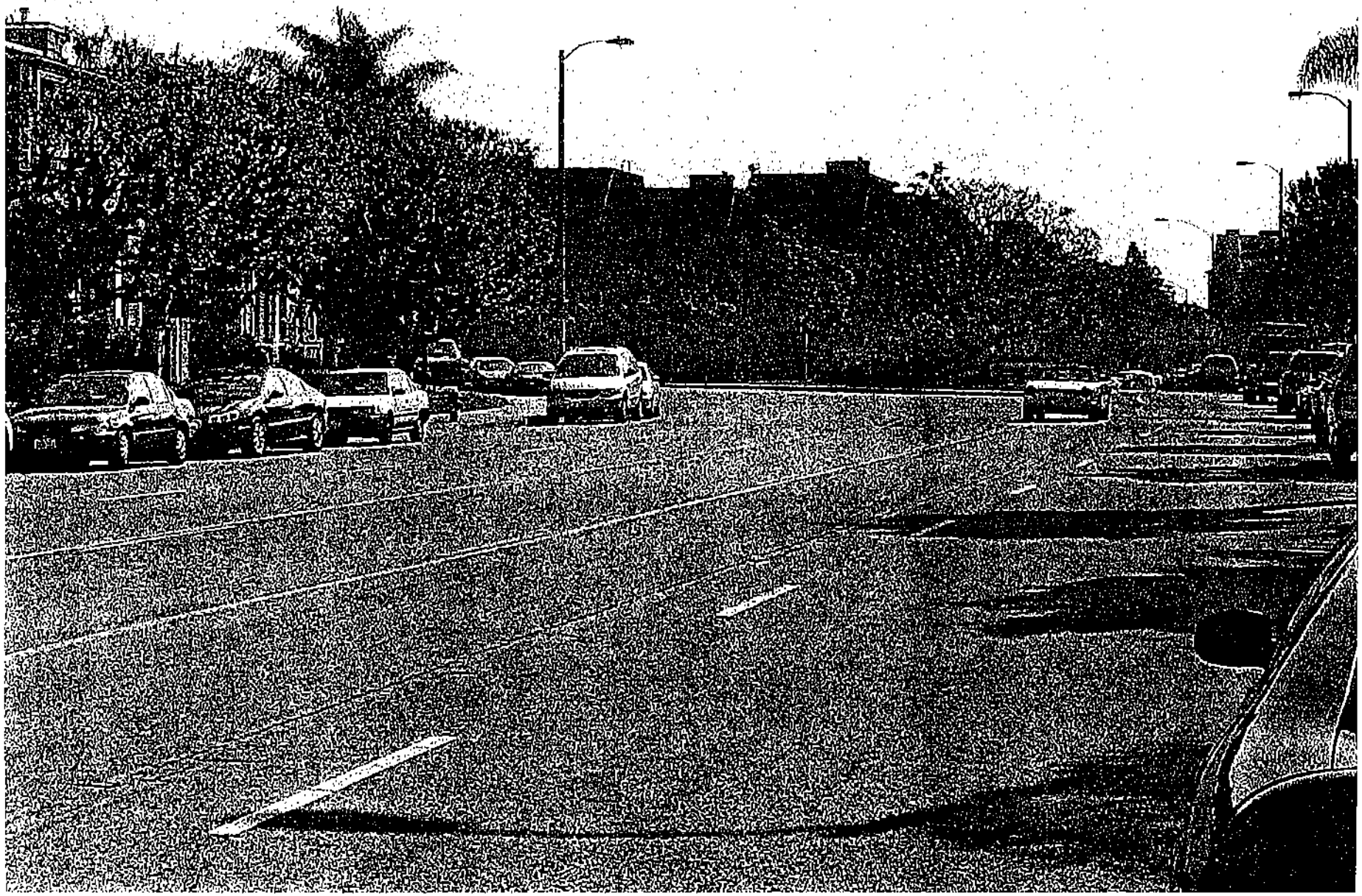
Regards,

Janet L. Osgood
Account Manager

ACROSS THE STREET FROM DEL AVENUE
HEADING NORTH ON VIA DOLCE

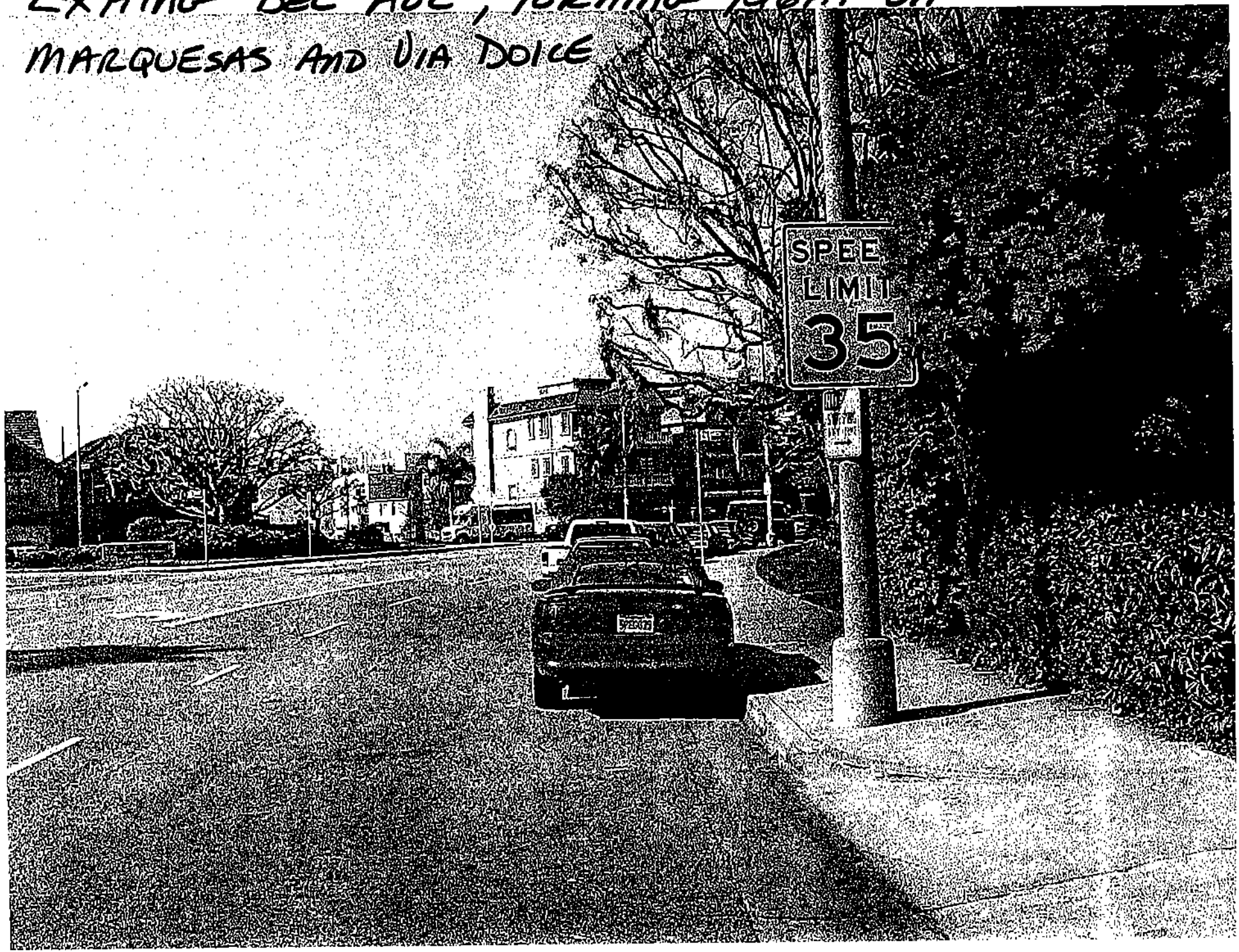


VIA DOLCE FACING SOUTH - FIRE HYDRANT
IS OUR SOUTHERN DRIVEWAY

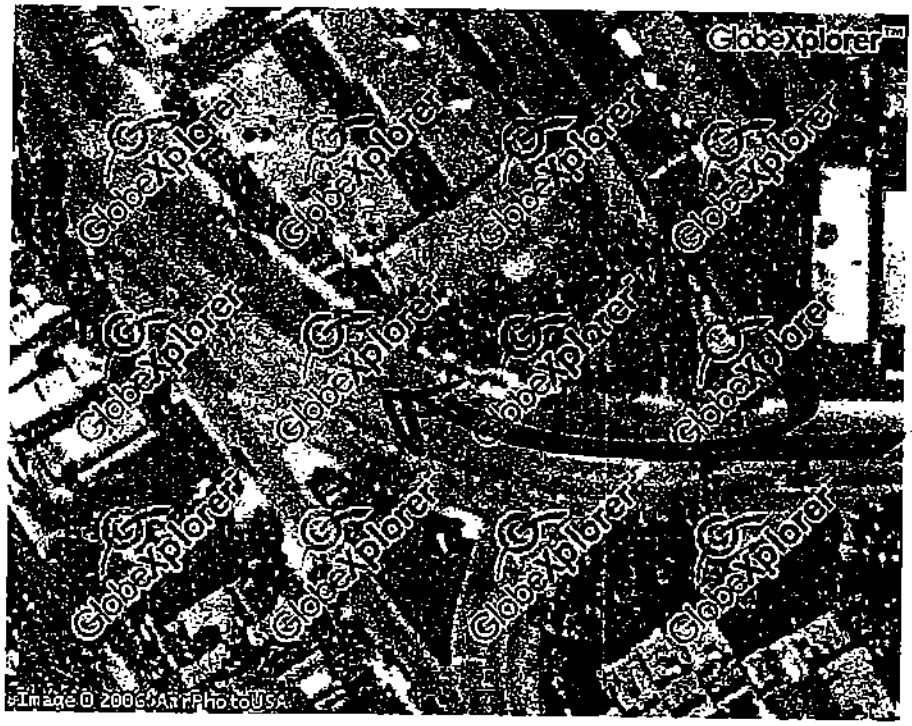


VIA DOLCE FACING SOUTH ACROSS FROM OUR SOUTHERN DRIVEWAY

EXITING DEL AVE, TURNING RIGHT ON MARQUESAS AND VIA DOICE



AERIAL PHOTO OF EXIT FROM DEL AVE ONTO VIA DOICE



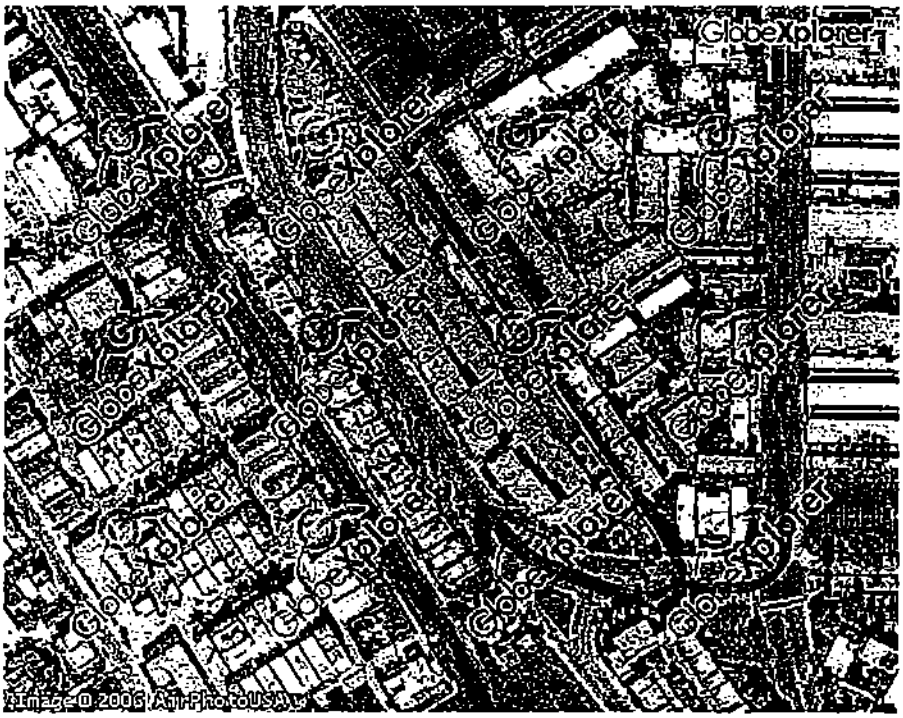
DRIVEWAY

MSC II
TOWNHOUSES

DIRECTION OF DRIVING FROM THE SHORES PROJECT

DEL REY
SHORES

AERIAL PHOTO OF EXIT FROM DEL AVE INTO VIA DOLCE



DRIVEWAYS

MSC II
TOWNHOUSE

DEL REY
"SHORES"

(2 pages)

NANCY ROSENE ASSOCIATES
3502 V ia Dolce
MARINA DEL REY, CA. 90292
E-MAIL: nancy@nancyrosene.com
TEL: (310) 577-0078
FAX: (310) 577-0079

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

From: Nancy Rosene
3502 Via Dolce
Marina Del Rey, CA 90292
(310) 823- 3303

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo,

I am a homeowner at the Marina Strand Colony II .

I am writing to object to the planned "The Shores Project" Project #R2005-00234-(4).

I recently purchased this townhouse as my first home which was a major investment for me, as well as I have spent a great deal of time and money remodeling my unit with plans to stay here permanently.

Had I been aware that this was going to be a possibility I would not have purchased the property and certainly would not have spent the amount of money that I did for the purchase. I bought it primarily because of its privacy and location. A new project of such dimension would completely destroy the serenity here and create major problems with parking and traffic.

This project would be located immediately east of our condominium complex. It is completely out of scale the surrounding buildings which are not more than two and three stories high.

I would like to request a limit to the height of The Shores Project to 50 feet includeing any additoins for screening equipment and architectural features.

Currently, their design of The Shores Project appears to call for the exit from the project to be right turn onto Via Marina. This would bring terrible the traffic to Marquesas Way

and Via Dolce which is the street our units are on (in front of our complex) and where our driveways exit are located.

More traffic on Via Dolce is extremely hazardous as our own driveways exits are on a curve with poor visibility of oncoming traffic. The additional traffic generated by The Shores Project would significantly increase this hazard. Our recommendation to resolve this problem is to arrange the traffic flow from The Shores Project where traffic will exit directly on to Via Marina with a left turn allowed, AND to reduce the number of units being built.

Currently many visitors of Del Rey Shores already park on Via Dolce because they have insufficient visitor parking spaces. Also some of the Del Rey Shores current residents with more than one vehicle also already park on Via Dolce. We have problems already in locating parking for any of our own visitors and guests.

Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of The Shores Project (over two and one half times the current density of Del Rey Shores) would severely aggravate this problem.

We propose the solution of reducing the number of units for this new project as well as to insure a sufficient amount of designated visitors' parking at the new Shores Project.

Thank you for you consideration of this matter.

Sincerely,

Nancy Rosene

VAN WERT, INC.

Land Use & Entitlement Consulting

February 28, 2006

HAND DELIVERED

Regional Planning Commission
County of Los Angeles
Hall of Records, Room 150
320 West Temple Street
Los Angeles, California 90012

Doc #710694

Re: The Shores Project-Marina del Rey R2005-00234-(4)

Dear Commissioners:

The Commission, at its March 1st hearing, will consider the redevelopment of the Del Rey Shores property (Parcels 100 & 101) in Marina del Rey. Redevelopment of the site and the provision of 544 new apartment units (the "Project") is a welcome addition to second generation development in the Marina. I have been asked by the lessee of the Esprit development (Parcels 12 & 15) located across Via Marina from the Project site, to review the DEIR and provide advice on potential impacts on public infrastructure, construction staging and other operational affects of the Project. The purpose of this letter is to comment on the Draft Environmental Impact Report (the "DEIR") for the Project.

Sewer Area Study

First, I would like to acknowledge the assistance of the applicant in promptly providing a copy of the Sewer Area Study (SAS) for the Del Rey Shores Project approved by the Department of Public Works on August 9, 2005. Our comments on the SAS are as follows:

1. **The SAS fails to address cumulative impacts.** The SAS flatly states that only sewage from the Project was considered in the analysis of additional flows. The cumulative impact of known developments was ignored. Specifically, no consideration was given to the much larger 1000 plus unit Esprit project being development on parcels 12 & 15, across the street from Del Rey Shores as well as other Marina projects that are under development, but not yet "hooked-up" to the County sewer system, including the 120 unit Villa project at Marina Harbor, where the applicant is the principal. The Esprit project is under construction and will be completed prior to redevelopment of the Del Rey Shores. **Since all, or nearly all, the sewage in Marina del Rey flows through manhole 69,** it is incredulous that the SAS does not address the sewer capacity requirements of Esprit or any other Marina projects dependent on this trunk sewer line network.

515 South Figueroa Street, 7th Floor • Los Angeles, California 90071
(213) 955-5632 • Cell (310) 850-5675 • Fax (213) 620-8816 • rvanwert@allenmatkins.com

2. The SAS is deficient as impact analysis tool and must be revised to provide a cumulative component. This information should be included in a revised DEIR as it represents substantial new information on a potentially significant infrastructure capacity question. We suggest that the Commission request the Department of Public Works provide information on cumulative projects in the Marina that can affect the operational capacity of the trunk line system serving the Marina and the impact on the Venice pump station located in the City of Los Angeles, which handles all of Marina del Rey's wastewater. It seems that the Del Rey Shores Project may be relying on capacity that the County has already allocated to other projects by virtue of prior construction permits and entitlement approvals yet; the Del Rey Shores Project proposes no offsite sewer infrastructure improvements.[1]

Fire Safety Plan

The Marina Del Rey Specific Plan (the "LCP") requires[2] applicants for new development to submit a "fire safe plan."[3] According to the Department's staff no fire safety plan has been submitted and none was included with the application. Therefore, the application is incomplete and deficient with respect to this LCP requirement. Beyond this regulatory requirement, the fire safety plan is important to demonstrate adequate fire access and project design compliance as required by the LCP.[4] This is even more critical for mid-rise multistory projects as proposed here. The fire safety plan is also valued as public information tool especially in this case since there is no analysis of fire safety issues in the DEIR. The applicant should be required to provide a Fire Department approved fire safety plan for the Project. Provision of the fire safety plan will also forestall any challenge of the Project's approval for failure to meet the requirements of the LCP.

Grading Plan

The project proposal includes 174,000 square foot below ground parking structure. The DEIR states that grading will be limited to 40,000 cubic yards balanced on-site.[5] This seems an extremely limited volume given the size of the parking structure. According to the Department's staff, no grading plan has been submitted to verify this value. The DEIR's 40,000 cubic yard estimate is not supported by the prima fascia evidence in the application record regarding the below grade parking structure. By way of explanation; the structural slab floor is to be "underlain by at least three feet of compacted, course gravel."[6] If we assume a below grade

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1 Draft Environmental Impact Report (the "DEIR") Page 3.0-9 Section 3.4.2
2 Los Angeles County Code (LACC) 22.46.1180 "Filing Requirements."
3 LACC 22.46.1180 15a.
4 Fire Safety Services LACC 22.46.1170 F
5 DEIR Page 3.0-10
6 DEIR Appendix 5.1(A) Page 5-9 Section 5.4.

parking structure deck height of say eight (8) feet, the calculated volume of the project excavation is 77,438 cubic yards (174,272 square foot garage plate * 12 depth [3 feet of gravel ,1 foot slab, 8 foot plate height] * 1,613 cubic yards/acre foot). Of course, there would be significant additional earthen materials generated by the spoils from the driven structural piles.[7] Esprit is concerned that a soil export operation may be required which is not addressed in the DEIR. While design details (topographic elevation fall across the site, foundation design, smaller foundation footprint or the placement of fill materials) ultimately may demonstrate that only 40,000 cubic yards needs to be excavated, analysis of a grading plan is required since it seems the DEIR value is inordinately low for such a substantial Project.

In order to protect the adequacy of the DEIR and insure no additional entitlements are required,[8] a conceptual grading plan documenting the required grading volumes should be submitted to the Department of Public Works and included in the DEIR.

Therefore, I request the Commission consider continuing this case for 60 days to permit the recirculation of the DEIR with the updated sewer area study report containing a cumulative analysis, a fire safety plan as required by the LCP, along with a County reviewed conceptual grading plan to document the scope of the project's earthwork.

Draft Conditions of Approval

A review of the Draft Conditions of Approval suggests some additional areas for the Commission's consideration.

1. The project involves a foundation design to be constructed on driven friction piles, a extremely noisy activity that will exceed County Noise Ordinance requirements. The Commission should **consider a condition, specific to pile driving, limiting the activity to 8:00 a.m. to 5:00 p.m. weekdays excluding weekends & holidays**. This would provide at least minimal relief for the adjacent residences.
2. The displacement of existing tenants has not been addressed; a condition needs to be included which addresses the needs of tenants for formal notification to vacate and to provide assistance with relocation (a rental fair).
3. There is no condition to limit the amount of grading. There should be a condition to address the volumes consistent with the Project EIR.
4. **There are no conditions related to traffic mitigation** and the required offsite road improvements, save a general reference to compliance the mitigation monitoring program (Draft Condition 25).

---

7 No estimate of the number or depth of structural piles is given so no estimate can be made as to the volume of earthen material involved.

8 Onsite grading permit LACC 22.46.1320 A3.

5. There is no condition requiring the preparation of a Fire Safety Plan based on the final project design prior to issuance of any building permits.
6. There is no condition regarding the protection of archaeological or paleontological artifacts encountered during grading activities.
7. The Esprit project is required to implement and submit an annual report on the effectiveness of a TSM/TDM traffic mitigation program. Would not the Marina and this Project benefit from a similar protocol?
8. **There is no condition regarding the Coastal Improvement Fund** and how this project will address this requirement of the LCP.[9]

I appreciate the Commission's consideration of these requests and look forward to the opportunity to review an adequate DEIR with appropriate infrastructure mitigation measures. The Shores Project will have a positive affect on the quality and character of Marina development. The Project deserves the Commission support and should receive the necessary entitlements to allow the construction of this new apartment complex as soon as possible.

Very truly yours,

ROGER K. VAN WERT, PRESIDENT
VAN WERT, INC.

Cc: Hartl
Ring
Koutnik
Fricano
Hafetz
Clark

9 LACC 22.46.1950.

Bruce Swartz
3811 Via Dolce
Marina Del Rey, CA 90292-5245
(Tel) 310 574 8978
(Fax) 310 574 8914

RECEIVED
JAN 24 2006

January 21, 2006

Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: Project Number R2005-00234-(4)

Dear Mr. Kuo:

I am the homeowner and property owner of record for 3811 Via Dolce, Marina Del Rey, CA. 90292. I am writing to strongly object to the planned "The Shores Project" Project #R2005-00234-(4).

This project is totally out of scale with every structure surrounding it. The current structures are two and three stories in height. The complex across the street from my residence, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project's proposed height of 100 feet is absolutely out of scale. In fact, the proposed 100 foot height will eliminate views of open sky from every window in my home that fronts Via Dolce. The majority of the homes on Via Dolce were constructed in the late 1980's and utilize similar footprints. All of these homes will be faced with the same loss of blue sky and suffer adverse air circulation.

I ask you to please assure the Shores Project is limited to 50 feet including any additions for screening equipment and artistic architectural features.

Another very troubling aspect of the project is the increased traffic flow on Via Dolce due to the planned right turn only onto Via Marina. Due to the increased density in the area and unchecked traffic speed limits, entering and exiting driveways on Via Dolce has become increasing hazardous. The Shores Project will significantly increase this hazard. Again, this is another reason to reduce the number of units at the Shores Project and redirect traffic to Via Marina away from Via Dolce.

Finally, due to limited parking at the Del Rey Shores Apartments, tenets and their visitor's park on Via Dolce. The proposed 2.5 times increased density of The Shores Project will only compound the problem.

I ask that you seriously consider reducing the number of units to insure current and future residents of Via Dolce will be able to continue to enjoy their homes.

Thank you.

Sincerely,

Bruce Swartz

LEGAL AID FOUNDATION OF LOS ANGELES

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110 Pine Avenue, Suite 420
Long Beach, California 90802-4421
Telephone: (562) 435-3501
Fax: (562) 435-7118

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West Office
1102 Crenshaw Boulevard
Los Angeles, CA 90019-3111
(323) 801-7989

Writer's Direct Dial Number (213) 640-3897

sbrowne@lafla.org

February 24, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Revised Comments Regarding Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this revised letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, the Western Center on Law & Poverty (WCLP), in opposition to the request to allow payment of fees in-lieu of providing affordable housing units at Del Rey Shores.

LAFLA, WCLP and POWER are intimately familiar with the State's Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in our favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with us in 2001 and adopted Interim Administrative Procedures for Complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One case in particular involved a proposed 298 unit development in the Marina Del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 on-site very low-income apartment units or 27 on-site very low-income condominium units, despite the fact that the developer had the additional expense of creating a $5 million access road. Importantly, Trammell Crow was able to meet its on-site affordable housing obligations at this development without taking advantage of a density bonus.

I. The State Mello Act Requires Replacement of Affordable Units that are Demolished in the Coastal Zone. The County Must Determine Whether any Low or Moderate Income Households Currently Reside at the Existing Development.

The Mello Act prohibits the conversion or demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." Gov't Code 65590(b). At Del Rey Shores, the developer is proposing to demolish a 202-unit apartment complex. However, the staff report does not contain any discussion regarding the economic status of the current residents. If low or moderate-income households currently reside at any of the 202 currently existing units, those units must be replaced. Although the developer stated, at the January 25, 2006 hearing before the Regional Planning Commission, that the existing Del Rey Shores units are market rate units, this does not answer the question as to whether there are tenants of low or moderate income residing in those units. The developer and the County are required to examine the incomes of existing tenants, not rent levels, in making a determination as to whether replacement housing is required.

With respect to the location of required replacement units, the Mello Act provides, "Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.*

The Regional Planning Commission cannot approve demolition of the 202 units currently located at the site of the proposed development without first determining whether any of these households are of low or moderate-income. To do otherwise would violate the Mello Act's replacement housing requirement.

II. The State Mello Act Does Not Allow Developers to Pay In-lieu Fees for Inclusionary Units unless it is Infeasible to Provide Even One Affordable Unit On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . . " CA Gov't Code Sec. 65590(d) (emphasis added). Pursuant to the Mello Act, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

While the Mello Act specifically contemplates in-lieu fees for replacement units, it does not do so for inclusionary units. With respect to replacement units, the Mello Act provides:

> The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished units is feasible, in which event replacement dwelling units shall be required:
>
> The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subsection.

CA Gov't Code Sec. 65590(b) and (b)(4).

The Mello Act does not contain a similar provision regarding in-lieu fees for inclusionary units. The Mello Act, therefore, does not allow in-lieu fees for inclusionary units unless it is infeasible for the developer to provide even one affordable unit on or off-site. The County's Affordable Housing Policy violates the Mello Act, as it allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible. The developer's request to pay an Affordable Housing In-Lieu Fee for Del Rey Shores should be denied, as it is feasible for the developer to provide 50 affordable units on-site as is discussed in Section III below.

III. If the County Reduces its Ground Lease Rent by 52%, as it is Required to do Pursuant to its Affordable Housing Policy, it is Feasible for the Developer to Include 50 Affordable Units On-Site at the Proposed Development.

As is discussed later in Section VI of this letter, it is feasible for the developer to fully comply with the County's Affordable Housing Policy, by providing 10% on-site affordable units (55 affordable units), if a more accurate methodology and threshold are utilized for analyzing feasibility. Nonetheless, even if KMA's proposed methodology and threshold are utilized, it is still feasible for the developer to nearly fully comply by providing 50 on-site affordable units (9.2%) if the County reduces its ground lease rent as it is required to do under its Affordable Housing Policy.

John Harrison
1900 Avenue of the Stars, 10th floor
Los Angeles, CA 90067

3/1/06

RECEIVED
APR 17 2006

Mr. Rick Kuo
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Dear Mr.Kuo:

I was at the Planning Commission meeting on March 1, 2006 where there was a high degree of concern for the availability of alternative housing for those evicted from their homes by the Shores Project. I appreciate and fully support the Commission's effort to provide adequate housing for these people. We must calculate the **human cost** of any new housing project. That's what a democracy does.

In this vain, the Commission must also consider the **human cost** that will be suffered by the present home owners who directly face the Shores Project! They pay tens of thousands of dollars in taxes and their anguish needs to be heard.

33 family homes in the Marina Strand II Complex will now be forced to live in dark "tombs" when the massive 100 foot high buildings overshadow their living rooms and bedrooms and blot out their light, sun and sky.

Dell Avenue is a narrow street in front of one row of narrow storage units. This is no buffer to the imposing super structures proposed!

Who will want to live in a cavern or buy a cave? Who will want to look directly into parking garages. Property values will plummet! These family's one and only major investment will be severely diminished!

Questionable "shadow impact studies" by the "applicant" did not begin to address the catastrophic effect of the Shores project upon these home owners who have much of their net worth in their homes and are continually burdened by high taxes, high mortgage payments and high maintenance costs. Their aspirations to have a little better life will be sacrificed so that the builder can make even more millions.

When you add this tragic cost to all the other negative affects discussed at the meeting, the **human cost** from the Shores Project will be incalculable.

The Commission's intervention is critical. A duplication of the present structures would be fine. Compromise is necessary.

John Harrison
Home owner in the Silver Strand

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

RECEIVED
APR 18 2006

From: Eugene and Barbara Haberman
3676 Via Dolce
Marina Del Rey, CA 90292
(310) 821-2787

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo

We are homeowners and Eugene is a member of the Board of Directors of the Marina Strand Colony II Home Owners Association. We attended both of the hearings on the project.

We am writing to object to the planned "The Shores Project" Project #R2005-00234-(4) which would be located immediately east of our condominium complex, Marina Strand Colony II.

We have carefully reviewed the Draft Environmental Impact Report for the project and find that it is very poorly done, It ignores several key significant factors and has many mistakes.

For example, the Draft EIR states that there is no morning shadow on nearby residential structures, Figure 5.5.3.4.2 which shows the shadows at 9AM on the Winter Solstice clearly shows shadows covering our entire Complex.

The Project is near methane gas storage facilities. Gas samples taken in 2005 at 5-10 feet below the surface show no methane. This is not even as deep as the 12 feet below grade level for the subterranean garage and its gravel underlay.

The Draft EIR states the there will be 2154 trips generated by the project. Three of the garage entrances are on Dell Avenue. Examination of the garage drawings indicates that about 40% of the spaces will have the exits on Dell Avenue as their closest exit. This comes to over 850 trips per day on Dell. Dell has low rise storage sheds on each side and the buildings of the Shores Project on the east side and our condominiums on the west. This will trap the exhaust gases net to our complex causing hazardous concentrations.

At the initial RPC hearing on January 25, 2006, one of the leaseholders expressed concern about the sewer capacity. There is strong reason for concern. The figures in the EI are based upon current sewer loads and do not account for the sewer loads of the residential units now under construction in the Marina. When they are added in the sewer capacity is exceeded. Also, the City of Los Angeles Department of Public Works has initiated an environmental review process for a proposed Venice Pumping Plant Dual Force Main because during severe wet weather peak flows have exceeded the capacity of the existing Force Main. The City of Los Angeles Department of Public Works statement on the Sewer is attached.

The noise from the pile drivers described in the Draft EIR is also intolerable. Based on the Draft EIR figures the sound levels will be between 88 and 94 dB(A) at our condominium complex

The Notice of Preparation states that 44,000 cubic yards of earth will be moved and it will all stay on-site. Simple calculations of the area of the subterranean garage which is 10 feet below grade and has a 3 foot gravel base (per the Draft EIR and statements byDavid O. Levine and David Gaulton on February 28,2006) show that at least 90,000 cubic yards of earth must be moved. Will all of this be able to remain on site?

Also as shown in the attached Ambient Air Quality Standards Suspended Particulate Matter, PM10, can result in premature death from heart or lung diseases in elderly/.The State Standard for 24 hours is 50 micrograms per cubic meter. The Draft EIR states that the concentration during construction from the shores Project will be 183 micrograms per cubic meter. This is extremely hazardous in view of the fact that twice as much earth is being moved. It is also especially hazardous because there is a City of Los Angeles housing project for senior citizens (Marina Manor on Via Dolce) less than 500 feet from the project.

Because of the error and misstatements described above the Regional Planning Commission should either diapprove the project or require that the Environmental Impact Statement be redone to provide the correct information.

Sincerely,

Eugene G. Haberman Barbara Haberman

Ambient Air Quality Standards

AIR POLLUTANT	STATE STANDARD	FEDERAL PRIMARY STANDARD	MOST RELEVANT EFFECTS
	CONCENTRATION/ AVERAGING TIME	CONCENTRATION/ AVERAGING TIME	
Ozone	0.09 ppm, 1-hr. avg. >	0.12 ppm, 1-hr avg.> 0.08 ppm, 8-hr avg.>	(a) Short-term exposures: (1) Pulmonary function decrements and breathing difficulty. (2) Risk to public health implied by alterations in pulmonary morphology and host defense in animals; (b) Long-term exposures: Risk to public health implied by altered connective tissue metabolism and altered pulmonary morphology in animals after long-term exposures and pulmonary function decrements in chronically exposed humans; (c) Vegetation damage; (d) Property damage
Carbon Monoxide	9.0 ppm, 8-hr avg. > 20 ppm, 1-hr avg. >	9 ppm, 8-hr avg.> 35 ppm, 1-hr avg.>	(a) Aggravation of angina pectoris and other aspects of coronary heart disease; (b) Decreased exercise tolerance in persons with peripheral vascular disease and lung disease; (c) Impairment of central nervous system functions; (d) Possible increased risk to fetuses
Nitrogen Dioxide	0.25 ppm, 1-hr avg. >	0.053 ppm, ann. avg.>	(a) Potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; (b) Risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; (c) Contribution to atmospheric discoloration
Sulfur Dioxide	0.04 ppm, 24-hr avg.> 0.25 ppm, 1-hr. avg. >	0.03 ppm, ann. avg.> 0.14 ppm, 24-hr avg.>	(a) Broncho constriction accompanied by symptoms which may include wheezing, shortness of breath and chest tightness, during exercise or physical activity in persons with asthma
Suspended Particulate Matter (PM_{10})	20 µg/m3, ann. geometric mean > 50 µg/m3, 24-hr average>	50 µg/m3, ann. arithmetic mean > 150µg/m3, 24-hr avg.>	(a) Excess deaths from short-term exposures and exacerbation of symptoms in sensitive patients with respiratory disease; (b) Declines in pulmonary function, especially in children; (c) Increased risk of premature death from heart or lung diseases in elderly
Suspended Particulate Matter ($PM_{2.5}$)	12 µg/m3, ann. arithmetic mean	15 µg/m3, ann. arithmetic mean > 65 µg/m3, 24-hr avg.>	
	[illegible]		[illegible] (c) Aggravation of cardio-pulmonary disease; (d) Vegetation damage; (e) Degradation of visibility; (f) Property damage
Lead	1.5 µg/m3, 30-day avg. ≥	1.5 µg/m3, calendar quarter>	(a) Learning disabilities in children; (b) Impairment of blood formation and nerve conduction
Visibility-Reducing Particles	In sufficient amount such that the extinction coefficient is greater than 0.23 inverse kilometers (to reduce the visual range to less than 10 miles) at relative humidity less than 70 percent, 8-hour average (10am - 6pm)		Visibility impairment on days when relative humidity is less than 70 percent
Hydrogen Sulfide (H_2S)	0.03 ppm, 1-hr. avg. ≥		Odor (rotten egg smell) Headache

Source: South Coast Air Quality Management District

Venice Pumping Plant Project
Public Scoping Meeting Notice
Notice of Preparation/ Initial Study
Projects In Environmental Review
Notice of EIR Availability
Draft Environmental Impact Report

Venice Pumping Plant Dual Force Main Sewer

The City of Los Angeles Department of Public Works has initiated an environmental review process for the proposed Venice Pumping Plant Dual Force Main project. The project includes a proposal to construct and install a new force main sewer extending from the Venice Pumping Plant at 140 Hurricane Avenue in Venice, to the North Outfall Sewer in Vista del Mar near Waterview Street in Playa Del Rey.

A New Force Main Is Needed Because:

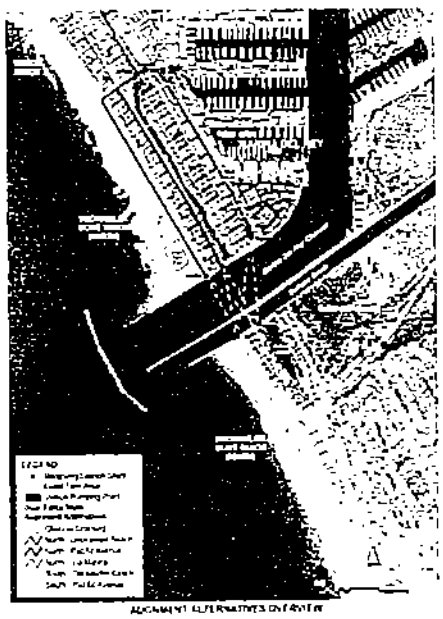
- During severe wet weather, peak flows to the Venice Pumping Plant have exceeded the capacity of the existing force main, which carries wastewater away from the plant.
- Currently, all of the wastewater from the Venice Pumping Plant is carried in one sewer. As a result, that sewer cannot be shut down for maintenance.

A New Force Main, In Conjunction With The Existing Main, Will:

- Expand capacity to ensure the continuous, safe flow during projected wet weather
- Help prevent sewer spillage onto city streets and adjacent surface waters
- Allow for much needed maintenance, rehabilitation and cleaning of the existing force main during dry weather

Site Map

Figure 1



Proposed Alignment Alternatives

As a result of numerous technical studies, four proposed alignment alternatives are under consideration and will be evaluated in an Environmental Impact Report (EIR).

Marquesas Way/Via Marina - From the pumping plant on Hurricane Street, the alignment would proceed east under the Grand Canal and along Marquesas Way, then southeasterly on Via Marina to the Marina Del Rey entrance channel. It would then cross under the Marina del Rey and Ballona

Creek channels and continue south within Pacific Avenue to a junction structure in Vista Del Mar near Waterview Street.

Pacific Avenue Alignment – From the pumping plant on Hurricane Street, the alignment would proceed westerly to Pacific Avenue, then turn south and proceed along Pacific Avenue, cross under the Marina Del Rey and Ballona Creek channels, and continue south within Pacific Avenue to a junction structure in Vista Del Mar near Waterview Street.

Dockweiler Beach to Pacific Avenue Alignment – From the pumping plant on Hurricane Street, the alignment would proceed westerly to the existing 20-feet wide sewer easement in Dockweiler State Beach, then turn south and cross under the Marina del Rey and Ballona Creek channels, and continue south of the channels within the Pacific Avenue alignment to a junction structure in Vista Del Mar near Waterview Street.

Dockweiler Beach Alignment – From the pumping plant on Hurricane Street, the alignment would proceed westerly to the existing 20-feet wide sewer easement in Dockweiler State Beach, then turn south and cross under the Marina Del Rey and Ballona Creek channels, and continue south along the Dockweiler Beachfront to a point west of the junction structure in Vista Del Mar near Waterview Street. From this point the line runs east to the junction structure in Vista Del Mar near Waterview Street. This alignment is about 11,000 feet long.

Construction Options

The four alignments under consideration cross the Marina entrance channel and Ballona Creek channel, requiring about 1,800 feet of tunneling under the two channels. Elsewhere along each alignment, two alternative construction methods are under consideration: open trench and tunneling. While the open trench method is less expensive, tunneling would eliminate the majority of traffic and parking impacts to residential areas both north and south of the channels, and can facilitate mitigation of other impacts such as noise.

Opportunities for Public Involvement

The City of Los Angeles Department of Public Works is sensitive to the needs of the community and wants to utilize an alignment and a construction method that minimizes impacts to surrounding neighborhoods. For more information about this project, please call our hotline at **(213) 629-0992**. To submit comments, please e-mail us at environment@eng.lacity.org.

Please note that any comments you would like to submit for official documentation regarding the scope of the EIR, must be sent no later than **June 10, 2005** via e-mail or by USPS to:

James E. Doty
City of Los Angeles
Public Works, Bureau of Engineering
Environmental Management Group
650 South Spring Street, Room 574

Law Offices of
RICHARD I. FINE & ASSOCIATES
468 North Camden Drive, Suite 200
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Telephone: (310) 277-5833
Facsimile: (310) 277-1543

RECEIVED
APR 17 2006

April 15, 2006

Mr. Rick Kuo
County of Los Angeles Department of Regional Planning
320 West Temple Street
Room 1348
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004; Supplement to January 20, 2006 and February 27, 2006 Letters

Dear Mr. Kuo:

This office represents the Marina Strand Colony II Homeowners Association who are residents of a sixty eight unit condominium complex situated directly west of the Shores Project (Project) across Dell Avenue, a private alley. This letter supplements the January 20, 2006 and February 27, 2006 letters and addresses the further issues raised at the hearings and in other responses by the developer.

I. RESPONSE TO DEVELOPER'S FEBRUARY, 2006 RESPONSES TO REGIONAL PLANNING COMMISSION ISSUES FROM HEARING OF JANUARY 25, 2006

A. The Project Is Not Compatible with the Surrounding Area Developments.

The February, 2006 Responses do not contest the fact that the proposed structure is the only structure other than "Kingswood" which exceeds three stories in Zone 12. Further the February, 2006 Responses do not contest that the proposed structure is out of character for the surrounding neighborhood west of Via Marina. All structures referred to in the February, 2006 Responses are east of Via Marina, a four lane street.

The February, 2006 Responses admits at page 3 that the Draft EIR finds that:

> The height and mass of the proposed structures are not in character with the <u>existing uses</u> proximal to the project to the south and west.

This section also responds to the Armbuster & Goldsmith, LLP Response relating to

the project being compatible with existing and proposed development.

B. The Project Does Block the Wind for Residential Structures Located to the West of the Project.

The February, 2006 Responses admits at page 7:

During those conditions when the wind occurs from the east, residential structures located west of the project site would expect some variation in wind speed and direction.

The interruption of wind affects the air circulation.

This section also responds to part of the Air Quality section of the Armbuster & Goldsmith, LLP Response.

C. The Project Will Block the Sun for Approximately Three Hours a Day.

The February, 2006 Responses admits at page 10:

Shadows from the proposed The Shores project would at the Summer Solstice, shade residential structures to situated to the west **would be shaded in the morning from sunrise [4:45 a.m.] to approximately 7:40 a.m.** Therefore, the proposed project would cast shadows on the residential structures situated to the west for an additional 90 minutes in the a.m. period at the Summer Solstice. This time period would decrease before and after the Summer Solstice. (Emphasis added.)

D. The Project Will Contribute to Traffic at Several Locations "Nearing or Exceeding Capacity" Which Prevents the Project from Being Approved under the LCP.

The February, 2006 Responses admits at page 18:

Results of the traffic study for the project plus cumulative traffic at 18 intersections evaluated indicate that the potential additional traffic resulting from area-wide development would significantly impact 10 intersections, **resulting in several locations nearing or exceeding capacity. The Shores project would contribute incrementally to those cumulative impacts.**

Five intersections occur within Marina del Rey....(Emphasis added.)

The LCP at pages 11-19 to 11-20 paragraph (d) prohibits development internally in the Marina unless the traffic improvements are constructed before the development is occupied.

The paragraph states:

> Development shall not be permitted to exceed the corresponding phase of road improvements.

Under this criterion, the permit cannot be presently issued, as the traffic improvements have not been made. It should be noted that Lincoln Blvd. and the intersections of Bali Way, Mindanao Way, and Fiji Way are within the County unincorporated area according to Figure 10 and Map 25 of the LCP.

The LCP at page 11-19 to 11-20, paragraph (e) requires a phasing schedule for all development in the Marina and a traffic improvements schedule. Such paragraph states in relevant part:

> However, if the trips generated by the development along with other previously approved development will exceed 50 percent of the total anticipated additional external trips to be generated by new or intensified Marina del Rey development, **additional development that generates external trips shall not occur until a traffic improvement on the approach roads that will mitigate those trips has been approved and funded by the appropriate agency.** (Emphasis added.)

The February, 2006 Responses does not address this issue. At present, it appears that the number of new trips from all of the new development will exceed 50% of the total anticipated new trips, and thus the permit cannot issue, based upon the statement in the February, 2006 Responses:

> that the potential additional traffic resulting from area-wide development would significantly impact 10 intersections, **resulting in several locations nearing or exceeding capacity. The Shores project would contribute incrementally to those cumulative impacts.**
>
> Five intersections occur within Marina del Rey....(Emphasis added.)
>
> This statement shows that the 50% criterion is exceeded.

This section also responds to the Traffic Impact section and part of the Air Quality section relating to carbon monoxide exuded from automobiles, of the Armbuster & Goldsmith, LLP Response.

E. The Traffic Analysis for Via Dolce is Flawed.

The February, 2006 Responses states at page 20:

> The Shores project is anticipated to add total net traffic of approximately 95 daily trips (34 southbound, 61 northbound) to Via Dolce, including 10 trips in the AM peak hour (1 southbound, 9 northbound), and 7 trips in the PM peak hour (4 southbound, 3 northbound).

This statement is absurd given the addition of over 342 new apartments and now three entrances to the garage on Dell Avenue, as shown by page 1 of Attachment A to the February, 2006 Responses.

In contrast the Armbuster & Goldsmith, LLP Response at page 5, states "the Project will only add about 215 to 220 daily trips to Dell Avenue." The A&G Response admits at page 9 that the project will generate "2,154 gross trips daily" and "1,354 net new daily". Even this figure is questioned as 342 new apartments are added which is over 1½ the present size of the complex, yet the EIR would only have the number of trips double.

This section also responds to part of the Air Quality section of the Armbuster & Goldsmith, LLP Response, relating to carbon monoxide exuded from automobiles.

F. The Parking Plan Does Not Account for Exiting Today's Cars When the Tandem Spaces Are Occupied.

The Parking Management Plan (Attachment A to the February, 2006 Responses) sets forth 1088 parking spaces for one standard and one compact vehicle configured as single and tandem parking for residents. Guest parking is single parking. The spaces are 18' and 15' long for standard and compact cars, respectively, and 8'-6" wide.

Effectively, a car in one space would not allow sufficient space for a second car in the next "compact" space, if one wanted to open the doors of each of the cars to enter or exit the cars when the spaces were occupied. Page 4 of Attachment A admits that the "design vehicle" Walker used was 6'-7" x 17'-4". This left approximately 1' for the door to open to exit the car

if the car were parked in the exact middle of the stall, and a car was parked at the line of the adjacent stall, or 2' for the door to open to exit the car if the car were parked in the exact middle of the stall, and a car was parked in the exact middle of the adjacent stall. In the first instance, the occupant could not exit the car. In the second instance, the occupant could only exit the car if he or she were very thin.

G. As of the Present Time the County has not Responded to the California Coastal Commission

As of the present time, the County has not responded to the California Coastal Commission LCP Review. As of May 25, 2006, the California Coastal Commission will be able to act on its recommendations and change the LCP.

The LCP Review refers to Coastal Act section 30519.5 which requires review of the LCP at least every five years at page 11:

> Section 30519.5 of the Coastal Act requires the Commission to conduct a Periodic Review of a government's Local Coastal Program at least once every five years. The basic purpose of the review is to determine whether the LCP is being effectively implemented in conformity with policies of the Coastal Act. Section 30519.5 states:
> *(a) The commission shall, from time to time, but at least once every five years after certification, review every certified Local Coastal Program to determine whether such program is being effectively implemented in conformity with the policies of this division.* ***If the commission determines that a certified Local Coastal Program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's Local Coastal Program.***
> *(b) Recommendations submitted pursuant to this section* ***shall be reviewed by the*** *affected local government and,* ***if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action.*** *The commission* ***shall review such report and, where appropriate,*** *report to the Legislature and* ***recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.***

The recommendations of the California Coastal Commission directly affect the approval of this project and demonstrate that the project would not receive Coastal Commission Approval.

This section also responds to the Armbuster & Goldsmith, LLP incorrect rendition of my January 20, 2006 letter.

H. The September Sewer Capacity Report Does Not Change the Sewer Deficiencies.

The February, 2006 Responses states at page 24:

> Data incorporated as part of the September, 2005 sewer report would not alter technical information or conclusions presented in the Draft EIR.

The Draft EIR does not discuss the cumulative amount of sewage presently scheduled to "go on line" and whether the collection line must immediately be improved. Unless this question is answered, the answer to the question of whether sewage can be disposed cannot be answered.

This section also responds to the Sewer Impact section of the Armbuster & Goldsmith, LLP Response.

II. RESPONSES TO REMAINDER OF ARMBUSTER & GOLDSMITH, LLP (A&G) RESPONSE

A. The A&G Response Admits That the EIR Did Not Address the County Building Codes.

The A&G Response admits at page 3 that the EIR "expressly contemplates the Project's compliance with all applicable County Building Code Requirements". It expressly shows that the EIR did not address such.

B. The A&G Response Did Not Address the Previous Findings of Methane Gas.

Section 4.2.4 of the EIR identifies the Project as being above the Southern California Gas underground storage site for natural gas which is operated in the oil field below the Project. The section states that Southern California Gas Company operates a large natural gas storage, processing and transmission facility south and southeast of Marina del Rey and that such facility has created the potential for subsurface migration of methane gas. The May 12, 2005 Soil Gas Survey Letter Report shows that testing only went five to ten feet below ground surface and above the water table.

The Report did show that in 1988, petroleum hydrocarbon odors were found at 17-22 feet below ground.

The EIR at 5.1.3.3.6 stated that strong hydrocarbon odors were noted from soil samples well below grade.

C. The A&G Response Did Not Address the Failure of the EIR to Address the LCP Earthquake Requirements

As shown in the February 17, 2006 letter, the LCP at page 10-5, paragraphs 2-3 requires "thorough site specific geologic and soils studies" and "engineering mitigation and structural set backs shall be designed for a bedrock acceleration of no less than 0.5g and a high potential for liquefaction."

The EIR failed to respond to these requirements. In particular, neither the EIR nor the Staff Report responded to the issue of the placement of the structure and the height of the structure and the possibility that an earthquake may cause the structure to collapse on the buildings of Marina Strand Colony II.

D. The A&G Response Did Not Address the Failure of the EIR to Address the Noise Impacts

The A&G Response admits at page 9 that the project will generate "2,154 gross trips daily" and "1,354 net new daily". Even this figure is questioned as 342 new apartments are added which is over 1½ the present size of the complex, yet the EIR would only have the number of trips double.

The EIR does not address this issue, nor does it address the issue of expanded air conditioning units as against present units etc.

E. The EIR Wind Study Is Flawed as it Did Not Measure Wind in the Berths.

The LCP states as follows in relevant part at page 9-6, paragraph 9:

> Development shall not significantly increase infringements of wind access for boats in their **berths**, the fairways and the main channel. ....Development shall only be approved if all identified significant adverse impacts, including cumulative impacts of a pattern of higher buildings, are fully mitigated. (Emphasis added.)

The EIR did not address these issues.

F. The A&G Response Does Not Dispute That More Law Enforcement Is Needed.

The A&G Response does not dispute that more law enforcement is needed as stated by the Sheriff's Department.

G. The A&G Response Does Not Dispute That More Solid Waste Dumps Are Needed.

The A&G Response does not dispute that more solid waste dumps are needed.

H. The A&G Response Does Not Dispute That Water Mains to the Marina Must be Expanded.

The A&G Response does not dispute that water mains to the Marina must be expanded in addition to the lines in the Marina.

I. The A&G Response Does Not Show That the Recommended Project Is Not Feasible.

The A&G Response does not show that the recommended project with underground parking is not feasible. The A&G Response only stated that the developer was unwilling to do the project.

III. FORM FOR MEASURING CUMULATIVE DEVELOPMENT SINCE 1996

The following is a Form for measuring development since 1996 prepared under an offer to Russell J. Fricano do such to assist the Regional Planning Commission in measuring such development.

1996 Traffic Base-	Zone	Cumulative

Name of Project Date Approved/Zone Addition to Traffic New Traffic Base/Zone/Cumulative

CONCLUSION

The proposed project fails to conform to the requirements for an EIR, fails to conform to the LCP, fails to conform to the LA County Building Code and fails to conform to the recommendations of the California Coastal Commission. As such, it is respectfully recommended that the proposed project be denied, or downsized, or returned for further review until it conforms to the aforementioned requirements and laws.

We thank the Commission for the opportunity to present these views.

Sincerely,
Law Offices of Richard I. Fine & Associates

By: _____
Richard I. Fine

21873wpd/t7a

FINAL

#9 Del Shores
4-19-06
RRiz / R.Fricano

Daniel Henry Gottlieb
Professor of Mathematics
Purdue University, Lafayette, Indiana 47907
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April 16, 2006

Dr. Russell Fricano
County of Los Angeles Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004

Dear Dr. Fricano,

The portion of the EIR which refers to affordable housing is section 6, alternative 2. The EIR states that the analysis of the alternative projects will not be done as carefully and thoroughly as the main proposed project. I DONOT THINK THIS IS POSSIBLE, because the original project is so full of negligence, errors and FALSE statements, it is impossible to do worse in section 6 with only a few pages.

The EIR contains the following defects:

- A CONFUSED initial description of the location and neighborhood of the project site.
- An ERRONEOUS description of the topography of the project site.
- A plan showing an IMPOSSIBLE shadow thrown by the project.
- The future trips generation OMITS the main exits of the project.
- Also OMITTED are major intersections and shopping centers and traffic data OMITTING the summer beach days,
- An UNEXPLAINED assumption of 0.6 % ambient growth, which is considerably smaller than the ambient growth projected from 1992 survey by DKS (which has turned out to be much too small).
- A MISCALCULATION shows that the via Marina DZ permits an increase of dwelling units because of commercial redevelopment DECREASE of trips for parcel 95S, when IN FACT the number of proposed redevelopment trips INCREASES (shown in the Dept. of Beaches status reports, January 30, 2006, p.11)).

- An examination of the scenic impact of the project OMITTING pictures showing the impact on views from a scenic highway and a scenic hiking trail.
- A FALSE statement that the water and boats cannot be seen from the project site.
- A FALSE statement that the shadows from the projected project will never fall upon the neighboring condo association.
- The FAILURE to accurately plot the three nearby abandoned oilwells on every project map.
- ETC., etc. , etc.

In Section 6,2 the alternative project for affordable housing assumes the MISCALCULATED number of permitted dwelling units and then adds 25% more units as affordable housing. This results in an unacceptable number of trips. All the extra construction would therefore increase (for the alternative project) the amount of construction pollution, including especially, PM_10, to unacceptable levels above the levels for the proposed project, However, the description of the proposed project's air quality impact in this section makes no mention of PM_10 levels. It is clear that the description of the alternative affordable housing project MANIPULATES the data to make the affordable housing project look bad and the proposed project look better . The use of PM_10 shows this clearly. Note that PM_10 and PM_2.5 are mentioned in a sentence which contains the words "PREMATURE DEATH" in the impact on air quality section. (Table 5.4-3)

I would have given more precise references had the Shores DEIR disk been given to me in a more timely fashion.

Thank you for listening to me.

Dan Gottlieb

LEGAL AID FOUNDATION OF LOS ANGELES

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sbrowne@lafla.org

June 6, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Additions and Corrections to Keyser Marston Associates' Mello Act Coastal Cities Survey, dated April 7, 2006

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, the Western Center on Law & Poverty (WCLP), in response to the Keyser Marston Associates (KMA) April 7, 2006 Mello Act Coastal Cities Survey. The KMA survey is missing some pertinent information. The purpose of this letter is to provide additional information regarding the cities in the KMA survey.

We issue one word of caution regarding the cities surveyed by KMA. The City of Los Angeles, to date, is the only City in the state of California with published decisions regarding the sufficiency of its Mello policies. (See *Venice Town Council v. City of L.A.*, 47 Cal.App.4th 1547 (1996) and *Coalition of Concerned Communities, Inc. v. City of Los Angeles*, 34 Cal.4th 733 (2004)). KMA's survey of unchallenged and possibly illegal Mello policies from other jurisdictions may therefore be of little value to the County in drafting its revised Policy. The County, accordingly, should be wary of relying upon the Mello policies of coastal jurisdictions other than the City of Los Angeles in revising its own Affordable Housing Mello Policy.

Finally, there is a problem with one of KMA's survey questions. KMA's third survey question concerns the methodology jurisdictions use to evaluate whether it is feasible to provide replacement units. This question reveals a fundamental misunderstanding of the Mello Act because the Mello Act's replacement housing obligation is *mandatory* for buildings with three or more units. The only time feasibility is relevant to determine whether to provide replacement units is with respect to the replacement of single family dwellings and duplexes. To date, all of the developments in the Marina that we are aware of have involved three or more units and, accordingly, would not be subject to any feasibility analysis for replacement units.

1. **San Diego City**

The KMA survey does not mention that San Diego has a citywide inclusionary housing ordinance that applies to all new residential developments of two or more units, including condominium conversions and rehabilitation that result in net, new units. The ordinance requires all home builders to set aside at least 10% of the total number of dwelling units in a project for households with an income at or below 65% of area median income (AMI) for rental units, or at or below 100% of AMI for for-sale units. Rents are restricted for 55 years. Developers can comply by building on-site or off-site in the same Community Plan area. An in-lieu fee of $2.50 per square foot may also be paid, which goes into a city fund to finance affordable housing development. In North San Diego, in the North City Future Urbanizing Area, 20% of new units are set aside at prices affordable for families earning 65% or less of AMI.

2. **Newport Beach**

The KMA survey does not mention that Newport Beach has a city-wide inclusionary housing policy, implemented through its Housing Element, which requires that residential developers either provide 20% of total units in their projects as low or very low-income or pay an in lieu fee. Projects of up to 10 units are required to pay the fee; projects over 50 units are required to provide the affordable units; and projects between 11 and 50 units have the option of providing the units or paying the fee.

3. **Long Beach**

KMA should not have included a discussion of the City of Long Beach in its Survey because Long Beach is exempt from the requirements of the Mello Act. California Gov't Code Section 65590(f) provides that cities with local coastal programs certified prior to January 1, 1982 are exempt from the requirements of the Mello Act. Long Beach's LCP was certified before this date. Long Beach's coastal zone housing program, therefore, is not required to comply with the Mello Act -- and, unfortunately, it does not.

4. **Laguna Beach**

The KMA Survey does not mention that the City of Laguna Beach has a city-wide inclusionary housing requirement, applicable to coastal zone developments, which mandates that 25% of a project's units be reserved as very low, low and moderate-income units.

5. **Santa Barbara City**

As mentioned in the Long Beach analysis above, the Mello Act exempts cities with local coastal programs certified prior to January 1, 1982. As KMA points out, the Santa Barbara LCP was certified in 1981. Therefore, the City of Santa Barbara is exempt from the requirements of the Mello Act.

6. **Santa Cruz**

The KMA Survey does not mention that Santa Cruz has a city-wide inclusionary housing ordinance, applicable to coastal developments, which requires developers to include 15% affordable units in residential developments of five or more units. Affordable units created through this program remain affordable in perpetuity.

7. **Pismo Beach**

The KMA Survey does not mention that Pismo Beach has a city-wide inclusionary housing requirement, applicable to coastal zone developments, which mandates that all projects include 10% moderate income units.

8. **Encinitas**

The KMA Survey does not mention that Encinitas has a city-wide inclusionary housing requirement, applicable to coastal zone developments, which mandates that all projects include 10% very-low income units.

9. **Huntington Beach**

The KMA Survey does not mention that Huntington Beach has a city-wide inclusionary housing requirement that is applicable to coastal zone developments. The City of Huntington Beach requires that all new residential projects of three or more units include a minimum of 10% affordable units. Affordable rental units must be made available to very low or low-income households. Affordable ownership units must be made available to very-low, low or moderate income households. (See Huntington Beach Municipal Code Sec. 230.26). Affordable units must remain affordable for a minimum of 60 years. Developers of projects of nine or fewer units may elect to pay a fee in lieu of providing the units on-site.

10. **Oceanside**

The KMA Survey does not mention that Oceanside has a city-wide inclusionary housing requirement, applicable to coastal zone developments, which mandates that all projects include 10% low and moderate income units.

11. **Santa Monica**

The KMA survey does not mention that Santa Monica has a city-wide inclusionary housing requirement that is applicable to coastal zone developments. The City of Santa Monica requires that new housing developments (of two or more units) include at least: (1) 20% of the total units for low-income households; or (2) ten percent of the total units for very low-income households. (Santa Monica Municipal Code Sec. 9.56.050). Affordable units must remain affordable for a minimum of 55 years. (Sec. 9.56.130). Developers also have an in lieu fee option. The City of Santa Monica is currently in the process of strengthening the terms of its inclusionary housing program.

12. **Coronado**

The KMA Survey does not mention that Coronado has a city-wide inclusionary housing requirement, applicable to coastal zone developments, which mandates that all projects include 10% low and moderate income units.

Thank you for your consideration of our comments.

Sincerely,

Susanne Browne
Attorney-At-Law

CC: Nicole Englund
Steve Napolitano
Larry Hafetz
Alan Kotin
Julie Moore

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June 7, 2006

Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Regional Planning Commission
170 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Re: Del Rey Shores: Project No. R2005-00142-(4), CDP No. 200500001-(4)

Dear Honorable Commissioners:

The Legal Aid Foundation of Los Angeles (LAFLA) submits this letter on behalf of its client, People Organized for Westside Renewal (POWER) and its colleague, the Western Center on Law & Poverty (WCLP), in response to the May 31, 2006 letter from David Levine regarding Del Rey Shores. We would like to bring the following issues to your attention:

1. We apologize for submitting our reply to Mr. Levine's letter on the same day as the RPC hearing on this matter. Unfortunately, we were not provided with a copy of Mr. Levine's letter until the evening of May 31st, just four business days before the RPC hearing. We had hoped to receive Mr. Levine's letter at an earlier date. We respectfully request the RPC to instruct Mr. Levine to provide future submissions to us at an earlier date so we can provide the RPC with timely replies in advance of future hearings.

2. The Applicant's latest offer of 38 moderate-income replacement units and 17 very low-income inclusionary units is unacceptable, as this is a step backwards from prior offers for the following reasons: (A) The Applicant has substantially reduced the number of very low-income units from 26 to 17 (a reduction of 9 very low-income

units); (B) The Applicant has traded the provision of very low-income units, on a one for one basis, with the provision of moderate-income units, when it is cheaper to provide moderate-income units; (C) The Applicant has reduced the number of affordable bedrooms from 82 to 73 (a loss of 9 affordable bedrooms); (D) The Applicant has reduced the number of affordable units from 56 to 55; and (E) The Applicant has not provided any feasibility analysis to support its latest offer.

3. The Applicant improperly relied upon rents and outdated tenant income data (up to two years old) for a significant number (more than one-half) of the tenants in its replacement housing analysis. The Mello Act requires an analysis of current tenant incomes. The Mello Act provides, "[i]n the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding dependents thereof, is of low or moderate income." Cal. Gov't Code Sec. 65590(b). Pursuant to the Mello Act, the Applicant should obtain current tenant income information. The Applicant's tenant income survey could easily be re-written to streamline it, and make it more user friendly, which would result in more tenants returning the surveys.

4. The Applicant improperly eliminated four units from consideration as replacement units because they were occupied by management employees of the Applicant. The incomes of these tenants should be included in the survey.

5. The Applicant improperly eliminated six units from its replacement housing analysis because the units are occupied by students whose parents guarantee payment of rent. If the students in these units are paying rent themselves, the incomes of their parents and their rent guarantee should be irrelevant for the purposes of the Mello Act.

6. The Applicant improperly proposes to replace two bedroom units where one tenant is of low or moderate-income with a one bedroom unit. This violates the Mello Act, which provides: "In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding dependents thereof, is of low or moderate income." Cal. Gov't Code Sec. 65590(b). Accordingly, pursuant to the Mello Act, if one roommate is of low or moderate-income, the entire unit should be replaced.

7. The Applicant unlawfully proposes to replace all existing affordable units with moderate income units. This is not supported by the Mello Act, which requires that replacement units be targeted to the same income level as the units lost to demolition or conversion. The Mello Act provides, "[t]he conversion or demolition of existing residential units occupied by persons and families of low or moderate income . . . shall not be authorized unless provision has been made for replacement *of those dwelling units* with units for persons and families of *low or moderate income*." Cal. Gov't Code Sec. 65590(b) (emphasis added). The Applicant, accordingly, should not replace all affordable units with moderate-income units. Replacement units should be

targeted to the income level of the tenants who currently reside in those units, both as a matter of law and as a matter of good policy.

8. The Applicant incorrectly asserts that there is authorization under State law to treat a smaller percent of very low-income units as equivalent to a larger percentage of low-income units for the purposes of the Mello Act. While State density bonus law (SB 1818) may make such a comparison for the purpose of granting a density bonus, the Mello Act does not. Application of density bonus law, moreover, is not appropriate here. Density bonus law defines "low-income" as 80% of AMI. In contrast, the County's Policy defines "low-income" as 60% of AMI. Since very low-income is defined in density bonus law as 50% of AMI, there is only a 10% difference between the County's definition of "low-income" and State density bonus law's definition of "very low-income." Accordingly, it is improper for the Applicant to treat one very low-income unit (at 50% of AMI) as equal to two low-income units (at 60% of AMI).

   In addition, the cost of providing 5% very low-income units (at 50% AMI) as the developer proposes is substantially less than the cost of providing 10% low-income units (at 60% of AMI) pursuant to the County's Policy. Unlike density bonus law, the Mello Act has a feasibility requirement. Because feasibility is at issue here, and given the substantial difference in cost between providing 10% low-income units (at 60% AMI) and 5% very low-income units (at 50% AMI), the Applicant should be required to provide what is feasible, not what it would like to provide based upon an artificial and inapplicable swap of very low-income units for low-income units.

9. The Applicant's proposal to provide 38 moderate-income replacement units and 17 very low-income inclusionary units is not supported by any feasibility analysis or data. The Mello Act requires the inclusion of affordable housing where it is feasible to do so. We know from our experience in the City and County of Los Angeles that 10% inclusionary units at either low or very low-income, is generally feasible, and the County's Policy supports this experience. Therefore, if the Applicant alleges that 10% inclusionary units is not feasible, the Applicant must provide a feasibility study to support this contention. To date, the developer has not provided any such analysis. Our analysis indicates that the Applicant can provide 10% low-income inclusionary units, as required by the County's Policy, and meets it replacement housing obligation on a like-for-like replacement basis.

10. The Applicant's proposal to calculate its inclusionary housing obligation based upon the net increase in the size of the new development is not supported by the Mello Act. The Mello Act anticipates that developers will provide affordable inclusionary units based upon total development size. The Mello Act provides, "[n]ew housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income." CA Gov't Code Sec. 65590(d). The Mello Act does not support the subtraction of existing units from new units in calculating a developer's inclusionary housing obligation. Pursuant to

the Applicant's proposed method of calculating inclusionary units, developers could circumvent their entire inclusionary housing obligation by simply constructing new developments the same size as existing developments.

11. Although we have raised many concerns with the County Policy, at no point have we criticized the County requirement that 10% of all units must be reserved as low-income. As you know, we advocate that the County refrain from making any Mello Act related decision until it has a Policy that fully complies with the Mello Act. However, if the County chooses to approve developments without a fully compliant Policy, it must follow those sections of the Policy that are Mello Act compliant unless it properly rescinds the current Policy. *First Presbyterian Church,* 59 Cal. App. 4th 1241, 1253 (1997) (courts will "invalidate, strike down or find preempted only those portions of an ordinance that are clearly unconstitutional or preempted by statute, and save those portions that are not, as long as they can accomplish one or all of the legitimate material purposes of the law."). By maintaining the 10% inclusionary standard, the legitimate goals of providing affordable housing and a uniform requirement are satisfied. And because our criticism of the County Policy's failure to address the replacement housing issue and the Policy's improper in lieu fee provisions do not disturb the 10% inclusionary requirement, the 10% requirement should be followed.

12. Our consultant, Dr. Neil Mayer, has updated and revised his feasibility analysis for Del Rey Shores from our prior submissions. This new analysis incorporates the Applicant's revised replacement housing plan and integrates the pro forma specifics provided by the County's consultants. Further, this new analysis includes specification as to which units in the project, by bedroom number and square footage, will be replacement and inclusionary units.

As explained in our prior submissions, our feasibility threshold is NOI/TDC = 0.07. We have run a feasibility analysis using a number of different models, set forth in the chart below. The first three models (A-C) examine *project feasibility* when 38 replacement units are provided as like-for-like, both in terms of affordability level and bedroom count. **The models show that when the lease rate is set to 48% of the full rate (5.04%), the project is feasible with 10% inclusionary units at Very Low-Income (at 50% of AMI).** It is worth noting that this result holds up in the face of the Applicant's expressed concern over its debt service coverage ratio (DSCR), which it claims is 1.25 to 1.30. Model B produces an NOI of $9,964,070, resulting in a DSCR of 1.354, a rate well in excess of that claimed by the developer.

The next four models (D-G) determine *how many inclusionary units* (low or very low-income) are feasible, given 38 moderate-income replacement units with like-for-like affordability and bedroom count and a .070 feasibility threshold. **The models show that when the lease rate is set to 48% of full lease rate (5.04%), 80 Low-Income, or 74 Very Low-Income, units are feasible.** At the full 10.5% lease rate, 38 Low-Income, or 34 Very Low-Income, units are feasible.

The last model (H) determines the *highest lease rate* that the County can charge for a project that provides 38 moderate-income replacement units with like-for-like affordability level and bedroom count and 10% very low-income inclusionary units. **The result is that the County can charge a lease rate of 7.7% and the project is still feasible with 10% very low-income inclusionary units.**[1]

Model	Replacement	Inclusionary	Lease Rate	NOI/TDC	Feasible?
A	38, income & bdrms *like-for-like*	10% very low	10.5%	.067	no
B	same as A	10% very low	5.04	.073	yes
C	same as A	10% low	5.04	.074	yes
D	38 all mod income, bdrms like-for-like	80 low feasible	5.04	.070	yes
E	same as D	38 low feasible	10.5	.070	yes
F	same as D	34 very low feasible	10.5	.070	yes
G	same as D	74 very low feasible	5.04	.070	yes
H	38, income & bdrms like-for-like	10% very low	7.7	.070	yes

13. We dispute the Applicant's contention that 544 is the maximum number of units that can be built with this type of construction on this site. We also dispute the Applicant's contention that a project greater than 544 units would impact the character of the Marina.

Sincerely,

Susanne Browne
Attorney-At-Law

[1] Our consultant's detailed analysis, including spreadsheets, is available upon request.

#7

Fricano, Russell

From: Blair Babcock [Blair.Babcock@lacdc.org]
Sent: Wednesday, June 07, 2006 7:51 AM
To: Fricano, Russell; Moore, Julie
Subject: Marina - Del Rey Shores

Russ,

As you may be aware, we have revised the CDC Income and Rents chart to reflect State stds. - in light of the Mello Act.

This should not affect the no. of replacement units at Del Rey Shores, as the income limits are the same. However, the rent amts. for any proposed units set aside for very low income (<50%) or low income (<60%) are lower than the nos. we previously listed. The rent amts. will correspond with what DRP has listed for unassisted density bonus units.

This took place after discussions with HCD and verifying that its methodology for determining rents is different than used by HUD. We don't agree with the methodology but it seems we are compelled to use it.

The Developer (David Levine), the Bd. Deputies, and the involved consultants are aware of the change.

I apologize for the late notice.

Blair

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June 6, 2006

Russell J. Fricano, Ph.D.,
AICP Section Head,
Zoning Permits II Los Angeles County Department of Regional Planning
320 W. Temple Street, Room 1346
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004; Supplement to January 20, 2006, February 27, 2006, April 15, 2006 and April 18, 2006 Letters

Dear Dr. Fricano:

This office represents the Marina Strand Colony II Homeowners Association who are residents of a sixty eight unit condominium complex situated directly west of the Shores Project (Project) across Dell Avenue, a private alley. This letter supplements the January 20, 2006, February 27, 2006, April 15, 2006 and April 18, 2006 letters, addresses the further issues raised at the hearings and in other responses by the developer and the June 5, Staff Report.

I. THE STATE DEPARTMENT OF GAS AND OIL MAPS MAY SHOW MORE ABANDONED OIL AND/OR GAS WELLS ON, OR NEAR THE PROPERTY OF THE "SHORES PROJECT" WHICH HAVE NOT BEEN PREVIOUSLY DISCLOSED

It has come to our attention that the State Division of Oil and Gas has maps which disclose all abandoned oil and gas wells which are on, or near the property of the "Shores Project". These maps will disclose if any other abandoned oil and/or gas wells are either on, or near the property of the "Shores Project" in addition to the two identified by the Department of Conservation. If such further wells exist, they also must be identified in the EIR comply with the requirements of Los Angeles County Building Code section 110.4.

The DEIR has not disclosed how this issue will be addressed to fulfill the code requirements.

Further H.R. 389, 83rd Congress, 1954 and Public Law 780 contained a jurisdictional map showing the City of Los Angels Sanitation Landfill located at Admiralty Way at the location of the Marina City Club extending to shore of "Lake Washington", the predecessor to

the Marina, the Monarch and Triangle Oil Refineries and an oil well at Panay Way and Palawan Way in the area of the "mole road" on Palawan Way, and a sewage treatment plant located at what is now Basin D. Residue from these projects including methane gas, h2s gas and other B-tex chemicals benzene (a known carcinogenic) and other toxins are within 200-1,000 feet of the proposed project.

II. A FURTHER DRAFT EIR SHOULD BE REQUIRED TO ADDRESS ALL ISSUES RAISED IN THE JANUARY 20, 2006, FEBRUARY 27, 2006, APRIL 15, 2006 AND APRIL 18, 2006 LETTERS AND THIS LETTER

The June 5, 2006 Staff Report states:

> Finally, Staff acknowledges the applicant's responses to environmental issues raised in testimony and public comment; further responses are appropriate for the Final EIR.

As shown in the June 6, 2006 Staff Report, the only further environmental issue addressed by the Applicant after the April 19, 2006 hearing was the sewage capacity issue which was addressed by a May 30, 2006 letter referring only to the sewer line "traversing the Del Rey Shores is adequate" and not stating if the sewer line to which this line connects is adequate for present or future redevelopment or development along Via Marina or Admiralty Way.

All other environmental concerns set forth in the January 20, 2006, February 27, 2006, April 15, 2006 and April 18, 2006 letters have not been addressed by the Applicant as of the present time. Arguments made by the Applicant and its attorneys at hearings and in letters have attempted to defend the DEIR or attack the opponents, but have not attempted to resolve the issues.

A. THE "EXCEEDING OF THE 1996 TRAFFIC CAP" AS SHOWN IN THE APRIL 18, 2006 LETTER HAS NOT BEEN CHALLENGED

No challenge of the "exceeding of the traffic cap" as set forth in the 1996 LCP has occurred since the April 18, 2006 letter. In this regard, the County of Los Angeles in its draft Response to the LCP Review, contends that a traffic study should occur as each new "development" is proposed.

The latest traffic study for the instant DEIR does not purport to present a cumulative impact from 1996 including the proposed development and all other approved and proposed developments or redevelopments. Such should be done before any "Final EIR" is prepared.

The forms submitted as part of the April 15, 2006 letter may be used as a basis for the results of such a study.

The April 18, 2006 letter shows that the traffic "cap" has been exceeded. This conclusion has not been disputed in any subsequent correspondence from the Applicant or its attorneys.

Testimony at the hearings indicates that the caps may be exceeded.

If any of these caps are presently exceeded or plans exist to exceed such, the permit should not be granted as it would violate the "total cap" of the LCP.

The Staff should perform the research from the information obtained from the County as to traffic studies and densities for previous and proposed developments.

B. NEW RESIDENTIAL CAPS, VISITOR SERVING DEVELOPMENT AND HOTEL ROOM CAPS MUST ALSO BE ADDRESSED

The same forms for the traffic study may be adopted to determine if the 1996 apartment, commercial development and hotel room "caps" for the marina are exceeded. These developments or redevelopments also impact traffic and density.

The LCP only provided for 2420 new residential units, 75 care units, 1070 new hotel or motel rooms based upon the ability absorb new traffic in the Marina. (See Figure 6 of the LCP)

The Staff Report has not addressed whether such "caps" have been exceeded by the projects which have received permits since 1996 through the present and projects which are presently applying for permits. If the "cap" has been exceeded, no permit should be given to anyone under the present LCP. Information obtained from the Department of Beaches and harbors indicates that approximately 1,700 new residential units and approximately 1,000 new hotel rooms are being developed. This number of new permits combined with the already developed residences and hotel rooms since 1996 may well have exceeded the cap, or approached it so as to not allow 544 new units.

Additionally there are "caps" on new "Visitor Serving Commercial (206,500 retail sq. ft.), restaurant seats (1875) and office space (58,000 sq. ft.) which will also impact traffic. (See Figure 6 of the LCP)

Testimony at the hearings may indicate that these caps may be exceeded.

If any of these caps are presently exceeded or plans exist to exceed such, the permit should not be granted as it would violate the "total cap" of the LCP.

The Staff should perform the research from the information obtained from the County.

C. FILLS CONTAINING DECOMPOSABLE MATERIAL WERE NOT ADDRESSED, METHANE GAS HAZARDS WERE NOT ADDRESSED AND TESTS WERE NOT DONE ON THE SOIL FOR TOXINS.

The January 20, 2006 letter referred to the deficiencies in the DEIR in the aforementioned areas. As of the present time, none of these areas have been addressed.

D. THE APPLICANT PERSISTS IN REFUSING TO TEST FOR METHANE GAS FROM THE SOUTHERN CALIFORNIA GAS STORAGE SITE UNDER THE PROJECT WHICH IS PRESENTLY A REGIONAL PROBLEM AT A LEVEL OF 17-22 FEET BELOW GROUND.

The January 20, 2006 letter referred the May 12, 2005 Soil Gas Survey Letter Report which shows that testing only went five to ten feet below ground surface and above the water table. The Report showed that in 1988, petroleum hydrocarbon odors were found at 17-22 feet below ground.

The DEIR at 5.1.3.3.6 stated that strong hydrocarbon odors were noted from soil samples well below grade.

The Applicant has refused to do testing at 17-22 feet below ground.

Methane gas bubbles have been tested throughout the Marina apparently appearing from the Southern California Gas Storage Site.

E. THE PROJECT IS NOT COMPATIBLE WITH THE SURROUNDING AREA DEVELOPMENTS.

The February, 2006 Responses do not contest the fact that the proposed structure is the only structure other than "Kingswood" which exceeds three stories in Zone 12. Further the February, 2006 Responses do not contest that the proposed structure is out of character for the surrounding neighborhood west of Via Marina. All structures referred to in the February,

2006 Responses are east of Via Marina, a four lane street.

The February, 2006 Responses admits at page 3 that the Draft EIR finds that:

The height and mass of the proposed structures are not in character with the existing uses proximal to the project to the south and west.

F. THE PROJECT DOES BLOCK THE WIND FOR RESIDENTIAL STRUCTURES LOCATED TO THE WEST OF THE PROJECT.

The February, 2006 Responses admits at page 7:

During those conditions when the wind occurs from the east, residential structures located west of the project site would expect some variation in wind speed and direction.

The interruption of wind affects the air circulation.

G. THE PROJECT WILL BLOCK THE SUN FOR APPROXIMATELY THREE HOURS A DAY.

The February, 2006 Responses admits at page 10:

Shadows from the proposed The Shores project would at the Summer Solstice, shade residential structures to situated to the west **would be shaded in the morning from sunrise [4:45 a.m.] to approximately 7:40 a.m.** Therefore, the proposed project would cast shadows on the residential structures situated to the west for an additional 90 minutes in the a.m. period at the Summer Solstice. This time period would decrease before and after the Summer Solstice. (Emphasis added.)

H. THE PROJECT IMPACTS WIND ON THE MARINA

Wind Impacts are addressed in the February 27, 2006 and April 15, 2006 letters and are shown to **not** have been adequately addressed in the DEIR as they were not addressed as to their effect on the berths, etc.

The LCP states as follows in relevant part at page 9-6, paragraph 9:

Development shall not significantly increase infringements of wind access for boats in their berths, the fairways and the main channel. ....Development shall only be approved if all identified significant adverse impacts, including cumulative impacts of a pattern of higher buildings, are fully mitigated. (Emphasis added.)

The DEIR did not address these issues

I. SEISMIC SAFETY IMPACTS

Seismic Safety Impacts are addressed in the February 27, 2006 and April 15, 2006 letters and are shown to not have been addressed in the DEIR **and in particular, nothing is addressed as to the effect upon the nearby buildings in the event of an earthquake, which is admitted in the A&G April 12, 2006 letter.**

J. ASBESTOS HAS NOT BEEN ADDRESSED IN THE DEIR

Asbestos removal has not been addressed in the DEIR.

K. THE WATER QUESTION IS NOT ANSWERED IN THE DEIR, AS NOTHING IS SAID ABOUT EXPANDING THE PIPES TO VIA MARINA, EXPANDING THE STORAGE CAPACITY AT TOPANGA CANYON AND UPGRADING LOCAL WATER STORAGE AND CONVEYANCE FACILITIES TO MEET BOTH DOMESTIC AND FIRE FLOW DEMANDS

The aforementioned subjects were action subjects at part C.12 of the LCP. They were not addressed in the DEIR or the A&G April 12, 2006 letter.

L. THE APPLICANT IS NOT PAYING FOR ALL WATER AND SEWER IMPROVEMENTS AS REQUIRED BY THE LCP

Section C.12(d. Findings) of the LCP states:

The existing water supply system is at near capacity. Any significant new developments in the Marina will require extensive and costly upgrades to the Waterworks District No.29 conveyance system.

Section C.12(e. Polices and Actions) of the LCP states:

1. Public works improvements in the study area shall be designated to accommodate new development permitted in the area **and provide for future public access needs.**

*****

Water and Sewer Services

3. Permission to build new and/or intensified development in the LCP area **shall be contingent upon the ability to provide proof of availability of adequate water and sewerage facilities.**

4. In cases where existing unused capacity cannot meet increased demand, **developer-financed improvements of existing water and/or sewerage facilities shall be required before new development and/or intensification can proceed.** (Emphasis added.)

The Applicant admits that it is not paying for all of the above costs. The costs are being borne by the taxpayers and ratepayers to subsidize the developer.

M. THE PARKING PLAN DOES NOT ACCOUNT FOR EXITING TODAY'S CARS WHEN THE TANDEM SPACES ARE OCCUPIED.

The Parking Management Plan (Attachment A to the February, 2006 Responses) sets forth 1088 parking spaces for one standard and one compact vehicle configured as single and tandem parking for residents. Guest parking is single parking. The spaces are 18' and 15' long for standard and compact cars, respectively, and 8'-6" wide.

Effectively, a car in one space would not allow sufficient space for a second car in the next "compact" space, if one wanted to open the doors of each of the cars to enter or exit the cars when the spaces were occupied. Page 4 of Attachment A admits that the "design vehicle" Walker used was 6'-7" x 17'-4". This left approximately 1' for the door to open to exit the car if the car were parked in the exact middle of the stall, and a car was parked at the line of the adjacent stall, or 2' for the door to open to exit the car if the car were parked in the exact middle of the stall, and a car was parked in the exact middle of the adjacent stall. In the first instance, the occupant could not exit the car. In the second instance, the occupant could only exit the car if he or she were very thin.

N. THE DEIR AND THE A&G RESPONSE DID NOT ADDRESS NOISE IMPACTS

The A&G Response admits at page 9 that the project will generate "2,154 gross trips daily" and "1,354 net new daily". Even this figure is questioned as 342 new apartments are added which is over 1½ the present size of the complex, yet the EIR would only have the number of trips double.

The EIR does not address this issue, nor does it address the issue of expanded air conditioning units as against present units etc.

O. THE A&G RESPONSE DOES NOT DISPUTE THAT MORE LAW ENFORCEMENT IS NEEDED.

The A&G Response does not dispute that more law enforcement is needed as stated by the Sheriff's Department.

P. THE A&G RESPONSE DOES NOT DISPUTE THAT MORE SOLID WASTE DUMPS ARE NEEDED.

The A&G Response does not dispute that more solid waste dumps are needed.

Q. THE A&G RESPONSE DOES NOT DISPUTE THAT WATER MAINS TO THE MARINA MUST BE EXPANDED.

The A&G Response does not dispute that water mains to the Marina must be expanded in addition to the lines in the Marina.

R. THE A&G RESPONSE DOES NOT SHOW THAT THE PROJECT WITH UNDERGROUND PARKING IS NOT FEASIBLE.

The A&G Response does not show that the recommended project with underground parking is not feasible. The A&G Response only stated that the developer was unwilling to do the project.

CONCLUSION

The proposed project fails to conform to the requirements for an EIR, fails to conform to the LCP, fails to conform to the LA County Building Code and fails to conform to the recommendations of the California Coastal Commission. As such, it is respectfully recommended that the proposed project be denied, or downsized, or returned for further

review until it conforms to the aforementioned requirements and laws.

At this time the DEIR for the proposed project does not contain enough information for the Regional Planning Commission to make an intelligent decision. A Final EIR also would not contain such information given the deficiencies and violations of the LCP set forth herein.

It is respectfully recommended that the Regional Planning Commission set this matter over for further hearing and that a further DEIR be prepared to address the issues set out herein.

We thank the Commission for the opportunity to present these views.

Sincerely,
Law Offices of Richard I. Fine & Associates

By: _____
Richard I. Fine

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December 10, 2006

Via Facsimile (213) 626-0434
Russell J. Fricano, Ph.D.,
AICP Section Head,
Zoning Permits II Los Angeles County Department of Regional Planning
320 W. Temple Street, Room 1346
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004; Supplement to January 20, 2006, February 27, 2006, April 15, 2006, April 18, 2006, June 6, 2006 and June 7, 2006 Letters

Dear Dr. Fricano:

This office represents the Marina Strand Colony II Homeowners Association who are residents of a sixty eight unit condominium complex situated directly west of the Shores Project (Project) across Dell Avenue, a private alley. This letter supplements the January 20, 2006, February 27, 2006, April 15, 2006 and April 18, 2006, June 6, 2006 and June 7, 2006 letters, addresses the further issues raised at the hearings and in other responses by the developer and the Findings and Order of the Regional Planning Commission, County of Los Angeles (Findings), the Mitigation Monitoring Plan (MMP) and the Findings of Fact and Overriding Considerations Regarding the Shores Apartment Community Project (Considerations).

A review of the Findings, MMP and Considerations shows certain discrepancies. This letter shall first address the CEQA requirements as they are found in the Findings, MMP and Considerations.

SECTION I OF CONSIDERATIONS - SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL EFFECTS

Aesthetics

Finding 7, "Land Use on surrounding properties" is incorrect in that the land use on the south of the property is not "vacant", but is a road and a low rise condominium project.

Finding 67 A. "Aesthetics" is incorrect in that "The height of the proposed apartment structures are out of character with existing development located to the

south;". The correct statement is that "It is also out of character with existing development located to the west and the east."

The Consideration at page 18 recognizes that "The Project will result in increased height and massing that could be viewed as being out of character with existing uses proximal to the Project site to the south and west. The Project also has the potential to block views, cast shadows on adjacent properties and introduce light and glare."

The Consideration at page 19 state that "Shadows from the Project would at the Summer Stolstice, shade residential structures situated to the west **would be shaded in the morning from sunrise to approximately 7:40 a.m. Therefore, the Project would cast shadows on the residential structures to the west for an additional 90 minutes in the a.m. period at the Summer Stolstice. This time period would decrease before and after the Summer Stolstice.**" (Emphasis added.)

The statements in both the Findings that "The DEIR also noted that the project was reviewed and approved by the Design Control Board." and in the Considerations at page 19 that "In addition, the Project has been reviewed and approved by the Design Control Board which required design changes to minimize potential aesthetic impact." is legally incorrect. The Design Control Board is an advisory body to the Board of Supervisors and does not have power to approve any thing. Further, the lead agency cannot approve anything until after the EIR is approved which had not happened.

Nothing has been done to mitigate the avoidable three hours of morning shadows on the condominiums to the West.

Air Quality

Finding 67 B. "Air Quality" does not discuss the change in air quality on Dell Avenue due to the increased traffic or the increased pollution to the west of the Project due to the heightened grade and the 75 foot building to be constructed from grade upwards, in comparison to the low rise condominium project. The A&G Response admits at page 9 that the project will generate "2,154 gross trips daily" and "1,354 net new daily". Even this figure is questioned as 342 new apartments are added which is over 1½ the present size of the complex, yet the EIR would only have the number of trips double.

The DEIR, Findings and Conditions do not discuss the effect on the air quality of approximately 2000 auto trips per day on Dell Avenue, which will be bounded by a one hundred foot wall which will prevent any movement of air. The Considerations admits at page 21 that the Project will add 215 daily trips to Dell Avenue.

The DEIR, Findings and Considerations also do not discuss the effect of the Project on the wind at Dell Avenue and its effect on dirt, dust and smog. The February, 2006 Responses admits at page 7:

During those conditions when the wind occurs from the east, residential structures located west of the project site would expect some variation in wind speed and direction.

The interruption of wind affects the air circulation.

The Considerations do not address this problem of air quality as a "potential impact" to be mitigated.

The MMP does not have any mitigation for these problems.

Wind Analysis

Finding 21, B. "Wind Analysis" is incorrect. Wind Impacts are addressed in the February 27, 2006 and April 15, 2006 letters and are shown to **not** have been adequately addressed in the DEIR as they were not addressed as to their effect on the berths, etc.

The LCP states as follows in relevant part at page 9-6, paragraph 9:

Development shall not significantly increase infringements of wind access for boats in their **berths,** the fairways and the main channel. ....Development shall only be
approved if all identified significant adverse impacts, including cumulative impacts of a pattern of higher buildings, are fully mitigated. (Emphasis added.)

The March 30, 2006 study referred to in the Finding did not address these issues.

Wind Analysis was not addressed in the Conditions.

Avoidance and Mitigation of Geologic/Geotechnical Hazards

Finding 21C. "Avoidance and Mitigation of Geologic/Geotechnical Hazards" is incorrect and incomplete.

Finding 67 C. "Geotechnical Impacts" is incorrect and incomplete.

The June 7, 2006 letter supplied further information relating to the oil wells on, or near the Project (Del Rey Shores property) and the City of Los Angeles Trash Dump, the Triangle Oil Refinery, the Monarch Oil Refinery and the Sewage Treatment Plant

referred to in the June 7, 2006 letter.

Attached thereto was a copy of the State Division of Oil and Gas Map of oil and gas wells. The map showed eleven oil wells. A second map superimposed upon a current map of the Marina and Marina Peninsula Area, showed Parcel Markings for Del Rey Shores (100S and 101S), Kingswood (102S) and Oakwood (103T). The superimposed map showed four oil wells on the Del Rey Shores property, two oil wells on the Kingswood property and four oil wells to the immediate south of the Del Rey Shores property (the last oil well is not on this map).

All of these oil wells must be identified in the FEIR and the mitigation shown to comply with the requirements of Los Angeles County Building Code section 110.4 before the FEIR can be approved.

Attached to the June 7, 2006 letter was a copy of the Army Corps of Engineers Map related to H.R. 389, 83rd Congress, 1954 and Public Law 780 showing the drawings of the "proposed marina" and the then City of Los Angeles Trash Dump, the Triangle Oil Refinery, the Monarch Oil Refinery and the Sewage Treatment Plant.

The location of the dump site, the oil refineries and the Sewage Treatment Plant, in relation to Del Rey Shores must be identified and verified and if required, the City of Los Angeles Trash Dump, the Triangle Oil Refinery, the Monarch Oil Refinery and the Sewage Treatment Plant must be identified in the EIR and the mitigation shown to comply with the requirements of Los Angeles County Building Code sections 110.3 and 110.4 before the EIR can be approved.

Additionally since hydrocarbon impacted soil existed at the oil wells and these latter sites, and the soil from these sites may have been used at the Del Rey Shores location, the soil at Del Rey Shores must be tested for toxins. If toxins are found, mitigation measures must be addressed in the FEIR.

None of this information was addressed in the Findings, the MMP or the Considerations.

Further the Considerations, Project Impacts (1) Geotechnical and Soil Resources, Potential Effect at pages 13-16, referring to the DEIR did not address the potential for the collapse of the proposed buildings on the adjacent Marina Strand II condominium project, VOCs, methane gas and other gases below the water table, and whether methane mitigation measures have been proven to work for methane gas removal both with and without "dewatering" when such methane gas removal is done in areas where underground water is and is not present. On the project site, as noted the water table extends just below the surface and "dewatering" is a necessity.

The Applicant Persists in Refusing to Test for Methane Gas from the Southern California Gas Storage Site under the Project Which Is Presently a Regional Problem at a Level of 17-22 Feet below Ground.

The January 20, 2006 letter referred to the May 12, 2005 Soil Gas Survey Letter Report which shows that testing only went five to ten feet below ground surface and above the water table. The Report showed that in 1988, petroleum hydrocarbon odors were found at 17-22 feet below ground.

The DEIR at 5.1.3.3.6 stated that strong hydrocarbon odors were noted from soil samples well below grade.

The Applicant has refused to do testing at 17-22 feet below ground.

Methane gas bubbles have been tested throughout the Marina apparently appearing from the Southern California Gas Storage Site. Within the last few months, an explosion occurred on the Marina Peninsula from methane gas, sending concrete in to the air. Without the testing, the same could occur at the Project.

Fills Containing Decomposable Material Were Not Addressed, Methane Gas Hazards Were Not Addressed and Tests Were Not Done on the Soil for Toxins.

The January 20, 2006 letter referred to the deficiencies in the DEIR in the aforementioned areas. As of the present time, none of these areas have been addressed.

Noise

Finding 67 E. "Noise" states that "Noise impacts will be generated on the adjacent area primarily by construction activity. Some noise impacts may be related to project operation, as a consequence of increased traffic trips, though not to the degree of construction noise."

Nothing is shown in the MMP to mitigate the noise from operations of the Project or traffic. The DEIR does not address this issue, nor does it address the issue of expanded air conditioning units as against present units etc.

Traffic Mitigation

Finding 21 H. "Direct Traffic Mitigation" is based on faulty information and

should be changed to be no construction due to the LCP traffic cap having been exceeded.

Finding 21 I. "Mitigation of Cumulative Impacts of the Subregional Traffic System" is based on faulty information and should be changed to be no construction due to the LCP traffic cap having been exceeded.

Finding 67 H. states that "The project would generate approximately 1,354 net new trips per day. Prior to mitigation, the project would generate a significant traffic impact at the intersection of Lincoln Boulevard and Mindanao Way."

The Considerations states at "Potential Effect" at page 20 that "Project traffic has the potential to add to congestion on local streets, arterial streets and intersections and regional transportation facilities."

The MMP does not refer to the present traffic situation in Marina del Rey and in particular the PM peak travel cap set forth in the LCP for Marina del Rey Second Generation Development of 2,750 vehicle trips. (See page 21 of Findings of Fact and Statement of Overriding Considerations.) The Considerations does not address the fact that the traffic cap has actually been exceeded as set forth in my April 18, 2006 and June 6, 2006 letters, which fact has not been challenged.

As shown in my January 20, 2006 letter, the Traffic Study attached to the Coastal Commission LCP Review showed that the LCP Review at Figure 2-38 shows that at the peak PM hour **1300 vehicles enter Lincoln Boulevard to travel southbound and 1880 vehicles enter Lincoln Boulevard to travel northbound. This is a total of 3180 pm peak hour trips. As the Commission is aware, both sides of Lincoln Boulevard are part of Marina del Rey.**

It should be noted that Lincoln Boulevard and the intersections of Bali Way, Mindanao Way, and Fiji Way are within the County unincorporated area according to Figure 10 and Map 25 of the LCP.

The LCP Review stated at page 30 that the LCP established a cap for traffic which limited development:

> It established a total cap of **2,812 evening peak-hour trips for the Marina** and required contributions by developers to mitigate the impacts of their development to traffic improvements inside the Marina and to the subregional transportation system outside the Marina proper. The total number of units authorized under the base zoning of the LCP exceeded the number of units that the traffic system

> could accommodate or that the traffic limits would allow, even with mitigation. The LCP explicitly included this first-come, first-served strategy to encourage re-development of the Marina. **Therefore, the revised LCP does not guarantee that zoning of a certain density, on any given parcel, would allow development at that density.** In certifying the revised LCP, the Commission approved greater heights as long as view corridors were provided, and required wide, publicly accessible walkways along the bulkhead of the entire Marina. (Emphasis added.)

The LCP Review at Exhibit 7, Figure 2-43, also stated that the projected growth of the Marina and the area by the year 2010 would increase evening peak hour traffic on Lincoln Boulevard according to LADOT studies by 90-100% south of Culver Drive or double the current volume, 26-29% near Marina del Rey and SR-90, and 11-17% north of Washington Boulevard.

In contrast, the EIR stated at Crain & Associates Traffic Analysis, page 29 that traffic would increase by .6% by the year 2009. The EIR did not translate its data into percentage increases at particular intersections based upon numbers that could be compared to the LCP Review for the added projects.

The DEIR however, also stated at Crain & Associates Traffic Analysis, page iii:

> County acknowledges that traffic growth within the project vicinity has outpaced the projections upon which the TIP trip fees were based,...

The letter from Captain Mary Campbell of the Sheriff's Department dated August 12, 2005 stated at page 3 that traffic on Lincoln Boulevard and Washington Boulevard are "gridlocked through much of the day" and will be "negatively impacted".

The DEIR does not extend to the year 2025 as set forth in the August 15, 2005 letter of the California Department of Transportation.

The LCP at pages 11-19 to 11-20 paragraph (d) prohibits development internally in the Marina unless the traffic improvements are constructed before the development is occupied.

The paragraph states:

> Development shall not be permitted to exceed the corresponding phase of road improvements.
> Under this criterion, the permit cannot be presently issued, as the traffic

improvements have not been made. It should be noted that Lincoln Blvd. and the intersections of Bali Way, Mindanao Way, and Fiji Way are within the County unincorporated area according to Figure 10 and Map 25 of the LCP.

At the Sub Regional Traffic Level, the Permit Cannot Be Issued If the Number of Trips Exceeds 50% of the Total Anticipated "New Trips" for the Whole Marina, until a "Traffic Improvement on the Approach Roads Has Been Approved and Funded. "

The LCP at page 11-19 to 11-20, paragraph (e) requires a phasing schedule for all development in the Marina and a traffic improvements schedule. Such paragraph states in relevant part:

> However, if the trips generated by the development along with other previously approved development will exceed 50 percent of the total anticipated additional external trips to be generated by new or intensified Marina del Rey development, **additional development that generates external trips shall not occur until a traffic improvement on the approach roads that will mitigate those trips has been approved and funded by the appropriate agency.** (Emphasis added.)

Neither the DEIR nor the Staff address this issue. The Considerations, states at page 21:

> The project and all other currently pending development projects subject to the LCP would only generate 681 peak PM peak hour trips or less than 25% of the maximum amount allowed.

Given the failure to consider the "actual trips" from the new development, or the "total anticipated additional external trips to be generated by new or intensified Marina del Rey development", at present, it appears that the number of new trips from all of the new development will exceed 50% of the total anticipated additional external new trips, and thus the permit cannot issue, based upon the residential units and hotel rooms presently in development and anticipated and those which have been developed since 1996.

The Findings must address this issue as required by the LCP. Further, even if independent contracts exist to make the improvements, the development is still contingent upon the road improvements being made by the developer.

The LCP does not allow these requirements to be mitigated by contributions to a TIP fund. Thus the mitigation to a TIP fund is not proper.

The LCP only provided for 2420 new residential units, 75 care units, 1070 new hotel or motel rooms based upon the ability absorb new traffic in the Marina. (See Figure 6 of the LCP)

The documents provided by the County entitled MDR Redevelopment Granted Since LCP Certification (2/8/96) per DZ and Marina del Rey Traffic Mitigation Fee Account on December 7, 2006, show 1059 new residential units approved prior to the Project and the Project 342 new residential units for a total of 1,401 new residential units or greater than one half of the allowed new residential units, and approximately 30,000 sq, ft. of new retail space.

This further indicates that the "new" traffic exceeds, the one half requirement. These documents also show that development adjacent to Marina del Rey accounted for 6,776 new dwelling units, 185,000 sq. ft. retail, 1,175,000 sq. ft. studio space, 2,000,000 sq. ft. office space, 160,000 sq. ft. community serving space and the COSTCO center.

These documents further demonstrate that the 2,750 cap has been exceeded as trips from all of these projects travel through Marina del Rey on Lincoln Boulevard at the PM peak time.

Solid Waste

Finding 67 G. "Solid Waste Disposal" states that "Solid waste impacts would occur from the generation of debris in demolition and construction operations, and later from project operations."

The Considerations states at page 23 in "Solid Waste, Potential Effect" that "Implementation of the proposed Project would generate a net increase of solid waste which will increase demand on limited landfill capacity."

The MMP does not impose a time limitation for the applicant to arrange for a hauling company to dispose of the solid waste outside of Los Angeles County, which makes any "mitigation" meaningless.

Water and Sewer

Finding 67 F. and 67 I. "Sewer and Water" respectively.
The Findings, the Considerations at pages 25-28 and the MMP all show that the Applicant is not paying for all the improvements as required by the LCP

Section C.12(d. Findings) of the LCP states:

The existing water supply system is at near capacity. Any significant new developments in the Marina will require extensive and costly upgrades to the Waterworks District No.29 conveyance system.

Section C.12(e. Polices and Actions) of the LCP states:

1. Public works improvements in the study area shall be designated to accommodate new development permitted in the area **and provide for future public access needs.**

*****

Water and Sewer Services

3. Permission to build new and/or intensified development in the LCP area **shall be contingent upon the ability to provide proof of availability of adequate water and sewerage facilities.**

4. In cases where existing unused capacity cannot meet increased demand, **developer-financed improvements of existing water and/or sewerage facilities shall be required before new development and/or intensification can proceed.** (Emphasis added.)

The Findings, Considerations and MMP admit that the Applicant is not paying for all of the above costs. The costs are being borne by the taxpayers and ratepayers to subsidize the Applicant.

SECTION 2 OF CONSIDERATIONS- ENVIRONMENTAL EFFECTS WHICH CANNOT BE MITIGATED

The Considerations admits that Noise from construction and operations (vehicular traffic) cannot be mitigated.

The Considerations admits that the potential effects on Air Quality from construction and operations (vehicular traffic, consumption of natural gas, operation of gasoline powered machinery and use of consumer products) cannot be mitigated.

The Considerations admits that the cumulative effect of traffic from the Project

and related projects cannot be mitigated.

The Considerations admits that the cumulative effect of solid waste from the Project and related projects will increase the demand on limited landfill capacity and cannot be mitigated.

SECTION 3 OF CONSIDERATIONS- GROWTH INDUCING IMPACTS

The Considerations admits that the Project is "not growth inducing.".

SECTION 4 OF CONSIDERATIONS- FINDINGS REGARDING ALTERNATIVES

The Considerations admits that "No project alternative is the environmentally superior alternative" and the "Rehabilitation of Existing Structures" was the considered the environmentally superior alternative of the remaining alternatives.

The discussion of alternatives excluded any discussion of the traffic cap of the LCP. It also assumed a need for housing in Marina del Rey, when no study exists to show such a need. It also did not discuss the "public use" requirement of the master leases between the County and the lessees which limits the purpose of the lease to public use, and reasonable cost to the public and a fair and reasonable return on investment to the developer for his investment under the lease.

Alternative 3- Rehabilitation appears to be the best alternative next to no project as private residential units are not a public use and do not provide "coastal viewing", the land area should provide for significant parking as it is solely dependent on the number of apartments, and the rents to the subtenants are supposed to be controlled under the master lease. The County can obtain a higher percentage as the landowner. Therefore there are not any impediments.

Alternative 5-Reduced Density appears to be the best alternative next to no project or Alternative 3, as private residential units are not a public use and do not provide "coastal viewing", the plan provides for significant parking as it is solely dependent on the number of apartments, and the rents to the subtenants are supposed to be controlled under the master lease. The County can obtain a higher percentage as the landowner. Therefore there are not any impediments.

SECTION 5 OF CONSIDERATIONS-MITIGATION MONITORING PROGRAM

The MMP is not of value as it does not address the potential effects identified.

SECTION 6 OF CONSIDERATIONS- STATEMENT OF OVERRIDING

CONSIDERATIONS

The "overriding considerations" are fallacious as no study has shown any need for housing in Marina del Rey. Private housing is not a "public use" and not benefitting the public by creating "coastal views" for the public.

Affordable housing will be benefitted by Alternatives 1,3, or 5.

The Project will create more traffic congestion and will not improve the area circulation system.

No showing is made that other construction in the County would not replace the project leaving the creation of jobs at a net zero. No showing is made that the lessee would hire any new management people.

The County will not significantly benefit as it only receives approximately 10% of the rental revenues. Compared to the County services to support the project, the project may be a net loss to the County as more police, fire and other services and infrastructure are needed. No study has been made to show the real cost to the County for the Project.

Further the lease with the lessee is void. The Mater Leases are limited to residential uses as shown by the Purpose of the Property sections of the Leases.

Section 3. Purpose or Use of Property

> The leased premises **shall be used only and exclusively** for multiple and single **residential units** (hotel, motel, apartments, cabanas, or trailer cabanas) and such other related uses and purposes incidental thereto as are specifically approved **and for no other purposes** whatsoever without the written approval of County. (Emphasis added.)

The price control duty was included in the Master Leases to ensure that the property would serve a public use. The County in their Opposition to a motion for reconsideration in the case of Coalition to Save the Marina, et al., v. County of Los Angeles, et al., LASC Case No. BS 089838 at page 4, ln. 24 quoting from their previous filings state that "..residential sublessees do not generate revenue or provide services to the public.."

The price control provisions are contained at Section 16 of the Master Leases, which provide as follows:

[Section] 16. CONTROLLED PRICES.

Lessee shall at all times maintain a complete list or schedule of the prices charged for all gods or services, or combinations thereof, supplied to the public on or from the premises hereby demised, whether the same are supplied by Lessee or by its sublessees, assignees, concessionaires, permittees or licensees.

Said price **shall be fair and reasonable, based upon the following two (2) considerations:**

First, that the property herein demised is intended **to serve a public use and to provide needed facilities to the public at fair and reasonable cost**; second, that **Lessee is entitled to a fair and reasonable return upon his investment pursuant to this lease**.

In the even that the Director notifies Lessee that any of said prices are not fair and reasonable, Lessee shall have the right to confer with Director and to justify said prices. If, after reasonable conference and consultation, Director shall determine that any of said prices are not fair and reasonable, the same shall be modified by Lessee or its sublessees, assignees, concessionaires, permittees or licensees, as directed.

The Lessee may appeal the determination of the Director to the Board of Supervisors, whose decision shall be final and conclusive. Pending such appeal, the prices fixed by the Director, shall be the maximum charged by the Lessee. (Emphasis added.)

On November 8, 2006 the subject of Section 16 of the Leases was discussed at the Small Craft Harbor Commission Meeting. The following is the Excerpt from the tape of such meeting obtained from the Small Craft Harbor Commission:

Faughnan:" Commissioners, all the County leases have the same exact control prices provision which reserves the right to the County, to the Director actually, to review prices charged in the Marina to determine weather they are fair and reasonable and there is a process that the department goes through to review prices and to determine weather or not they are fair and reasonable and they can require the Lessee change the prices if the record determines that they are not fair and reasonable and then the lessee has the right to appeal to the Board of Supervisors. "

Commissioner Searcy: "**and what initiates that process**, I think that's the big

issue"

Faughnan: " **What initiates the process is someone coming to the Department and complaining that they have a rent issue**, but the Department needs to have actual information, needs to know(unintelligible) that they are being charged unfairly, they need to know the rent that is being charged, they need to know who the lessee is, they need all that actual information, they cannot just investigate based on third hand information".
Commissioner Searcy: Thank you
Commissioner Lesser:" **What is the difference between fair and reasonable and fair market value ? "**
Faughnan: **The Department and the County believes there is no difference between fair and reasonable. Fair and reasonable is fair market value, once again this is something that has been addressed in a litigation brought by the Coalition.** (Emphasis added.)

This was the first time that the County has admitted that it did not initiate any control of prices under Section 16 of the Leases. The County had always argued that it had controlled prices under Section 16.

The County has pointed to Policy Statement No. 27 as its method of enforcement. This new statement shows that the County has disregarded Policy Statement No. 27 and disregarded the June 6, 1977 letter to Victor Adorian from County Counsel discussing the responsibilities and duties of the County under Section 16 of the Leases.

This was also the first time that the County admitted that it was disregarding the criteria of Section 16 that prices are controlled by "fair and reasonable cost" to the public and the lessee's "fair and reasonable return upon his investment pursuant to this lease."

These admissions show that the County has abrogated any control of prices under Section 16 of the Leases and allowed the vagaries of the market to control the prices thereby giving huge profits and returns to the lessees at the expense of the taxpayers.

In the case of *Coalition to Save the Marina et al. v. County of Los Angeles et al.*, LASC Case No. BS 092794, Section 11.1.2 of the restated Master Lease with Marina Pacific Associates is nearly identical to the present Lease. Such section 11.1.2 states as follows in relevant part:

Notwithstanding any contrary provision of this Article 11, **Lessee shall not be**

> **required to obtain County's approval of any Sublease of an individual apartment or boat slip lease in the ordinary course (but not the master lease of multiple units) to a person or persons who will physically occupy the subleased unit,** as long as such Sublease is in the form of the standard residential apartment lease or boat slip lease, as the case may be, hereafter submitted to and approved by the County **and the term of such Sublease does not exceed one (1) year** (each, an "Approved Apartment/Slip Lease"). (Emphasis added.)

The County, demurred to the Second Amended Complaint contending that it should not be part of the lawsuit as did not control the rentals to sublessees under the Master Lease and admitted at page 5, ln.1-7 of its Memorandum in Support of its Demurrer dated September 7, 2006 as follows:

> **Under Section 11.1.2 of the Master Lease it is clear that the County does not have the right to approve or disapprove or reject MPA's boat slip tenants**. As such, the County has no ability to evict or direct the eviction of Hoffman or any other boat slip tenant under the terms of the Master Lease. **Similarly, the County, has no authority under the Master Lease to direct MPA to enter into a boat slip lease with a particular individual**. The County should not be subjected to litigating a cause of action that seeks to prohibit it from engaging in an act it is already contractually enjoined from undertaking. (Emphasis added.)

The County again made the same admission at page 2, ln. 25 to page 3, ln. 2 of its Reply Brief dated October 10, 2006 as follows:

> The County's contractual relationship with MPA is governed by the Master Lease. As described in the County's Demurrer, under Section 11.1.2 of the Master Lease, **the County does not have the right to approve or reject MPA's boat slip tenants. As such, the County has no ability to evict or direct the eviction of Hoffman or any other boat slip tenant under the terms of the Master Lease. Similarly, the County has no authority under the Master Lease to direct MPA to enter into a boat slip lease with a particular individual...** (Emphasis added.)

The County did not change its position at the Hearing on the Demurrer to the Second Amended Complaint on October 16, 2006. The County's Demurrer was overruled and the Trial is set for May 21, 2007. **The County did not dispute that the Master Lease was void if it did not have the right to approve or reject subtenants.**

The lessee in the Marina Pacific case is the Applicant herein.

The cases of *International Longshoreman's & Wharhousemen's Union v. Los Angeles Export Terminal, Inc.*, (1999) 69 Cal.App.4th 287, 297-298, *Irwin v. Manhattan Beach*, (1966) 65 Cal.2d 13, 23, *Egan v. City and County of San Francisco*, (1913) 165 Cal. 576, 583-584, *Haggerty v. City of Oakland*, (1958) 161 Cal.App.2d 407, 415 and *County of Los Angeles v. Nesvig*, (1965) 231 Cal.App.2d 603, 617, require County control of prices and approval of subleases as a pre requisite for a determination that a "public purpose" exists when public property is leased to private persons. Nesvig provides some guidance with the following observation:

> Powers which require the exercise of judgment and discretion ...must necessarily remain with the public agency and cannot be delegated. Thus the issue in each case is whether **ultimate control over matters involving the exercise of judgment and discretion has been retained by the public entity.** *Nesvig*, supra, 231 Cal.App.2d at 617 (Emphasis added.) .

In *Haggerty*, supra, the Court stated as follows at 161 Cal.App.415-416 in relevant part:

> ...The port has the right to inspect menus , lists and schedules of prices" and if any of them is determined unreasonable or inappropriate for the services rendered or the item sold, the same must be modified as directed by the port.....**The requirement that all subleases be upon notice to the port manager and his right to disapprove a sublease ensures that conventions desiring to use the premises and approved by the port manager will not be denied such use.** (Emphasis added.)

The Court concluded at 161 Cal.App.2d 417:

> The controls above mentioned, as well as others contained in the lease, meet the requirements of the Ross case, supra (44 Cal.2d 52), **that the municipal lease provide for control of rates, charges and practices of the lessee.**

(Emphasis added.)

Nesvig, supra at 231 Cal.App.2d at 616-618 further supports the position that the County has given the public land to private individuals. The court set forth the criteria for County control to avoid a gift of public funds at *Nesvig*, supra, at 231 Cal.App.2d at 617-618 as follows:

> ..**Thus the issue in each case of delegation is whether ultimate control over matters involving the exercise of judgment and discretion has been retained by the public entity.** (Egan v. City and County of San Francisco, 165 Cal. 576 [133 P. 294, Ann.Cas. 1915A 754]; City and County of San Francisco v. Ross, 44 Cal.2d 52 [279 P.2d 529]; Haggerty v. City of Oakland, 161 Cal.App.2d 407 [326 P.2d 957].)
> **In the Egan and Ross cases the contracts were found wanting because the public body had failed to retain control over prices to be charged for the facilities placed under private operation. In Haggerty**, on the other hand, the lease of a convention hall and banquet building by the City of Oakland for operation by a private party **was found to be a valid exercise of city power under proper controls, since the city retained the right to control the use of the premises** for convention or banquet purposes **and to control the** prices , charges , **subleases, and practices of the lessee.** (Emphasis added.)

The Commission must consider the recent admissions of the County in deciding on the application. These admissions invalidate the premises upon which the Applicant bases its application as the County being the owner of the land and the Applicant being the lessee claiming under a Master Lease, which is void.

CONCLUSION

The proposed project fails to conform to the requirements for an EIR, fails to conform to the LCP, fails to conform to the LA County Building Code and fails to conform to the recommendations of the California Coastal Commission. As such, it is respectfully recommended that the proposed project be denied, or downsized, or returned for further review until it conforms to the aforementioned requirements and laws. At this time the FEIR for the proposed project does not contain enough information for the Regional Planning Commission to make an intelligent decision.

We thank the Commission for the opportunity to present these views.

Sincerely,
Law Offices of Richard I. Fine & Associates
By:_____
Richard I. Fine

22011wpd/t7a

Los Angeles County Department of Regional Planning
320 West Temple Street, Los Angeles, California 90012
Telephone (213) 974-6443

RPC/HO MEETING DATE	CONTINUE TO
12-13-06	
AGENDA ITEM # 7	
PUBLIC HEARING DATE January 25, 2006	

PROJECT No. 2005-00234-(4)
Coastal Development Permit T200500002
Variance T200500004
Parking Permit T200500004

APPLICANT	OWNER	REPRESENTATIVE
Del Rey Shores Joint Venture	Los Angeles County	Aaron Clark Armbruster & Goldsmith LLP

REQUEST
To authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment complex consisting of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A total of 1,088 parking spaces will be provided within parking structures on-site.

LOCATION/ADDRESS	ZONED DISTRICT
4201 Via Marina Parcels 100 and 101	Playa del Rey
	COMMUNITY Marina del Rey
ACCESS Via Marina (East)	EXISTING ZONING Specific Plan: Residential V

SIZE	EXISTING LAND USE	SHAPE	TOPOGRAPHY
8.31 Acres	Apartment Complex (202 units).	Trapezoidal	Level

SURROUNDING LAND USES & ZONING

North: Residential V – Multi-family.	East: Residential IV & Open Space –. Multi-family and open space
South: Open Space/City of Los Angeles – Vacant	West: City of Los Angeles – Condominiums

GENERAL PLAN	DESIGNATION	MAXIMUM DENSITY	CONSISTENCY
Countywide	High Density Residential	N/A	See Staff Analysis
Marina del Rey Land Use Plan	Residential V	75 d.u./Acre	See Staff Analysis

ENVIRONMENTAL STATUS
Environmental Impact Report; potential impacts: Geotechnical and Soil Resources, Noise, Hydrology and Water Quality, Air Quality, Visual, Traffic/Access, Solid Waste, Water Service and Sewer Service.

DESCRIPTION OF SITE PLAN
The proposed 544-unit apartment consists of twelve buildings 75-feet in height (five stories of apartments over two levels of parking) with architectural features extending approximately 25 feet above the roofline. A total of 1,088 parking spaces will be provided within parking structures on-site; 328 of these spaces are allocated to compact parking.

KEY ISSUES
- Coastal Development Permit is requested for the demolition of the existing apartment and replacement with the proposed 544 unit apartment. Satisfaction of Sections 22.56.2320, Title 22 of the Los Angeles County Code, Coastal Development Permit "Burden of Proof" requirements.
- Variance is requested for the installation of signage that exceeds sign area/size requirements. Satisfaction of 22.56.290. Title 22 of the Los Angeles County Code, Variance "Burden of Proof" requirements.
- Parking Permit is requested for the provision of compact parking for a portion of the on-site apartment parking. Satisfaction of 22.56.1020, Title 22 of the Los Angeles County Code, Parking Permit "Burden of Proof" requirements.
- The applicant initially requested to pay an affordable housing In-Lieu Fee instead of providing requisite affordable housing units for the proposed apartment; the applicant withdrew this request and agreed to provide 37 moderate income replacement units and 17 very low income inclusionary units in compliance with Mello Act requirements.

(If more space is required, use opposite side)

TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

STAFF CONTACT PERSON		
Russell J. Fricano, Ph.D., AICP		
RPC HEARING DATE(S)	RPC ACTION DATE	RPC RECOMMENDATION
January 25, 2006, March 1, 2006, April 19, 2006 & June 7, 2006.	December 13, 2006	Approve
MEMBERS VOTING AYE	MEMBERS VOTING NO	MEMBERS ABSTAINING
4	0	1
STAFF RECOMMENDATION (PRIOR TO HEARING)		
Approve		
SPEAKERS*	PETITIONS	LETTERS
(O) 22 (F) 9	(O) (F)	[(O) 58 (F) 7

*(O) = Opponents (F) = In Favor

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl, AICP
Director of Planning

February 23, 2006

TO: Pat Modugno, Chairman
Leslie G. Bellamy, Commissioner
Esther Valadez, Commissioner
Wayne Rew, Commissioner
Harold Helsley, Commissioner

FROM: Russell J. Fricano, Ph.D., AICP
Zoning Permits II

SUBJECT: COASTAL DEVELOPMENT PERMIT NO. 200500002-(4)
PARKING PERMIT NO. 200500004-(4)
VARIANCE NO. 200500004-(4)
Del Rey Shores
Agenda Item No. 7: March 1, 2006 Continued Hearing Date

The above-referenced case is to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey. This Regional Planning Commission initially heard this case on January 25, 2006 and continued the case to March 1, 2006 to provide additional time for the applicant to submit a more detailed parking management plan and an analysis of tandem parking. The following report summarizes testimony at the January 25, 2006 public hearing and provides the status of other activities associated with this case.

SUMMARY OF TESTIMONY: JANUARY 25, 2006 PUBLIC HEARING

A duly noticed public hearing was held on January 25, 2006. The public hearing opened with a presentation by staff. The Commission inquired about various issues related to the case: the overall height of the structure in reference to the height permitted in the Marina LCP; further questions pertaining to on-site parking; whether the Marina LCP permitted additional building area or density sufficient to provide additional affordable units; whether there were affordable units located in the existing apartment; an inquiry regarding trends of vehicles used in the Marina (to correspond to parking provided) and whether mixed use was proposed.

Proponent Testimony

Eight persons testified in favor of the request: the applicants, applicants' representatives, representatives of the Department of Beaches and Harbors and the Community Development Commission, a member of the Marina del Rey Lessees association and the representative of a property owner within the vicinity of the site.

A managing partner of the proposed project initially provided testimony in support of the project. The applicant noted that the proposal was needed to respond to current market trends. Another partner noted that the project would provide needed redevelopment for the area and would not exceed the requirements of the Marina del Rey LCP and would reduce impacts in comparison to maximum permitted build-out. He further noted that provision of affordable housing would be infeasible; the payment of the in-lieu would provide more affordable units for the public (outside of Marina del Rey) and generate funds for the Department of Health Services. The testifier also noted that changes including elimination of direct access to Via Marina and a minor modification to on-site parking; these minor changes would not affect the conclusions of the DEIR. The applicant clarified that there are no affordable units at the existing Del Rey Shores apartment complex; mixed use is not permitted in the LCP; the apartment management contacted local residents regarding project impacts and plans were made to notify and meet with existing tenants.

The architect next testified; according to the testifier, compact parking was proposed to allow more space for landscaping; compact spaces are standard width, but shorter in length; the testified also presented on-site landscaping and sidewalk width; the design of the project would propose a nautical theme which included a discussion of roof-top sail-like structures provided for aesthetic purposes. He also noted that the Design Control Board accepted the design. The applicant's signage consultant next presented testimony. As part of his presentation the signage consultant presented renderings to the Commission. Another applicant informed the Commission that he could provide examples of signage comparable to signage proposed by the applicant. The Commission further inquired whether the proposal was consistent with the intent of the in-lieu fee ordinance and the purview of the applicant determining whether the fee was applicable. That applicant noted that that additional ground rent generated by the project could provided funds for health care. In response to inquiries on the apartment parking, the applicant's architect further affirmed that the project was gated; this includes all parking.

Representatives of the Department of Beaches and Harbors and CDC presented testimony in favor of the request. The first testifier, representing Beaches and Harbors, noted that the project provided refurbishment; that the apartment management exhibited sensitivity to tenants and the Design Control Board expressed its support of the project. In response to a Commission inquiry the

applicant noted that the in-lieu fees proposal was part of an asset management strategy. The representative noted that economic issues, consistent with the permitted density influenced development proposals in the Marina. He also noted that parameters were set with the applicant for consistency with the Marina LCP.

A representative of CDC also provided testimony in favor of the in-lieu fee request. He noted that it would contribute to the construction of affordable units elsewhere, combined with other subsidies; in-lieu fees would apply to development projects within unincorporated Los Angels County (though not within three miles of the coast). The number of units could not be ascertained at this point.

A member of the Marina Lessees' Association presented testimony in favor of the request stating the project would provide redevelopment and much needed housing and is consistent with the Marina LCP. A representative of a lessee in the vicinity of the site also testified in favor of the request. However, the representative requested that a full analysis of sewer line capacity was missing from the Draft EIR (DEIR); there was also a discrepancy in the report cited in the DEIR and the report mentioned in the Appendix of the DEIR. A continuance was requested until the testifier had an opportunity to review the full report.

Opposition Testimony

Ten persons testified in opposition. Opposition testimony consisted of concerns expressed by environmental impacts, Plan Consistency and the provision of affordable housing

Environmental Issues and Plan Consistency

A representative of the homeowner's association for a project adjacent to the site testified in opposition noting a number of potential impacts: buildings would be nearer to homes and at higher elevations; impacts on sunlight, ocean air. traffic, water, and sewage disposal; capped oil wells and toxic waste were not adequately addressed. Another testifier noted that the project was presented pre-maturely due to a periodic review. The testifier also noted that further biotic analysis was required and traffic mitigation was not reasonable,

A resident of an adjacent project commented on the initial study and noted that the analysis did not account for the loss in moderate income housing and displaced persons. Cumulative impacts and biotic impacts should be further considered.

An attorney representing the homeowners to the rear of the property also testified in opposition. According to the testifier, the EIR is inadequate; LCP review is in process; it was suggested that the Commission wait until May when the review was complete. The LCP review conducted its own traffic study

different than the one in the DEIR with different traffic estimates; a cap on vehicle trips precludes further development in the Marina. The testifier also noted that the proposed building would be the second highest building in the Marina, in contrast to adjacent smaller condominiums and single-family residences. The testifier also stated that the height of the building must be evaluated in terms of height above sea level.

A representative of a homeowner's association noted that the project was not consistent with prevailing development given its height and density; proposed building height poses wind and shade impacts`; noise and air pollution impacts were also noted. The testifier further stressed impacts on privacy, curbside parking, traffic safety and infrastructure and services, given construction of other large projects in the area. The testifier also stressed that increased paving will exacerbate water runoff and flooding.

A representative of the Coalition to Save the Marina noted that the Marina was originally intended for a small craft harbor, current trends in development are not consistent with this intent; furthermore, the Marina is public use; the testifier inquired how the Marina could be used to house private individuals on public land. The project also posed quality of life and infrastructure impacts. A representative of various environmental groups also questioned the adequacy if the DEIR in evaluating biotic impacts.

Affordable Housing

An attorney representing People Organized for West Side Renewal (POWER) testified in opposition to the in-lieu fee request. The replacement housing obligation of the Mello Act has been overlooked; inclusionary housing obligation. The developer is replacing demolished units with market rate units which do not correspond to the household income of tenants in the existing building; a full study of the income of the tenants must first be conducted; if low or moderate income households occupy the units, a plan for replacing the units should be provided. The testifier also suggested that the County must reduce ground-rents to make affordable housing feasible; according to the testifier, it is feasible to provide affordable units on-site.

Another testifier representing the Western Center on Law and Poverty noted that an analysis regarding the feasibility of any off-site unit was not conducted. The purpose of the Mello Act was to create new affordable units; the in-lieu fee can not cover the cost of 55 affordable units. The applicant did not conduct an adequate assessment of providing additional units to cover the cost of affordable units.

A local resident and member of POWER further testified that she had witnessed residents misplaced and rents have become less affordable. On-site affordable housing should be provided. Another member of POWER also testified that

affordable housing is needed to protect the Coastal Zone from gentrification. The testifier also questioned the relationship between rent reduction and providing social services. The testifier also expressed concern about congestion.

Another Marina resident expressed concern about misplacing lower-income residents and the need to provide affordable housing on public land.

At the conclusion of the January 25, 2006 hearing, the Commission requested that the applicant provide a detailed parking management plan and analysis of tandem parking. The Commission continued the public hearing to March 1.

PARKING ANALYSIS

According to the commission's request, the applicant provided a parking management plan and more detailed renderings of the proposed parking (see attached). A written parking analysis and management plan was submitted by the applicant's consultant Walker Parking Consultants in the report, "Shores Apartment Complex Project: Parking Management Plan." dated, February 15, 2006. The report covered proposed parking layout, Method of operation and Parking Space Allocation.

Parking Layout

Dimension of parking spaces were described and the allocation parking was described based on the type of parking space (standard vs. compact), residential vs. guest parking and parking at various level of the parking structure.

Method of Operation

A description of the entry control system including keycard-activated gated access and intercom system.

Guest Parking

Guest parking is provided near the entrance closest to Villa Marina. Some spaces are provided prior to entry to the garage. Entry to the garage is also determined by an entry control system. Guest parking is separate from tenant parking

Resident Parking

Parking for residents is provided on the upper level of the structure, separated from guest parking. Access is gated to the garage through a Keycard-activated entry system.

Parking Space Allocation

Tandem Parking

The applicant proposes 257 tandem parking spaces; 408 units or 75% of the total units are estimated to have a need for two parking spaces. Considering tandem parking design, 216 have been designed to accommodate one standard and one compact vehicle.

Compact Parking

The applicant proposes 329 compact spaces which is approximately 30% of total parking. County code limits compact spaces to 40%% of total spaces.

Vehicle Sales Analysis

The applicant also provided an analysis of local vehicle sales by size of vehicle. The report indicates the start of a shift to the purchase of smaller vehicles.

RESPONSE TO ENVIRONMENTAL COMMENTS

The environmental consultant prepared response to comments associated with the Draft Environmental Impact Report (DEIR) in the Report, "Responses to Regional Planning Commission Issues for Hearing of January 25, 2006." A copy of this report is attached. The issues covered by the responses are listed in the table below.

Response to Environmental Comments

Issue	Response
Distance of the proposed project from existing residential units to the west.	Map clarifying distances was provided. Distances ranged from 71' – 87'.
Consistency of project scale with similar projects in the vicinity	Maps submitted indicating the permissible heights and heights of approved projects. The height of the structure on Parcel 103 was at a greater elevation; those to the west were lower.
Whether the height of the proposed structures would obstruct wind patterns and reduce air circulation westerly of the site.	Response cited wind study conducted by Rowan, William, Davies & Irwin which concluded that wind patterns we would not be affected. Wind Roses (patterns) were also provided.

Response to Environmental Comments (continued)

Issue	Response
Shading impacts to residential structures to the west.	Shadow diagrams were submitted indicating shadow effects at various times of the day. Report relied on city of Los Angeles thresholds as westerly structures are located in the city of Los Angeles. While some shading was estimated before 9:00 a.m. these impacts were not determined significant.
Discrepancy between sewer report cited in the DEIR and a study listed in the Appendix of the EIR; Request for entire sewer capacity report.	Study listed in the DEIR Appendix was used in the DEIR analysis. Sewer capacity report available at the Department of Regional Planning.

SIGNAGE RENDERINGS

The applicant's signage consultant, Beck and Graboski, submitted exhibits entitled, "Exterior Signage Master Plan" dated February 21, 2006. These plans depict the location of proposed signage, site renderings square footage calculations and a comparative analysis of signage on other properties in the Marina.

PUBLIC COMMENT

Proponents

The project applicant has submitted a letter in response to the issues presented by Richard Fines in his correspondence dated January 20, 2006.

Opposition

Following the January 25, 2006 hearing staff has reviewed additional correspondence. This summary includes written testimony submitted after the January 25, 2006 Regional Planning commission hearing.

A local resident submitted an analysis of on-street parking in the vicinity of the project. The report compared parking space with the number of dwelling units, commercial development and boat slips. The study noted concerns with owners of multiple vehicles parking on the street and parking by visitors outside the area.

Other residents expressed concern about traffic congestion, building height, architectural design, and impacts on shading and wind patterns.

Correspondence is attached to this report.

STATUS OF APPLICATION

Based upon discussions following the January 25, 2005 public hearing, staff notes that the applicant may have considered other options regarding the current application. At the time of this report, staff has not received any definite information on this issue. The applicant will provide the status at the March 1, 2006 public hearing.

RECOMMENDATION

Staff recommends that the Commission:

- Hear further testimony;
- Consider whether materials and responses provided by the applicant sufficiently address potential impacts and community concerns.
- Continue this matter if the applicant modifies this request, to provide additional time for staff and the public to review any changes in the proposal.

SUGGESTED MOTIONS

IN ORDER TO PROVIDE ADDITIONAL TIME TO CONSIDER ISSUES PRESENTED AT THIS PUBLIC HEARING, I MOVE THAT THE REGIONAL PLANNING COMMISSION CONTINUE THE PUBLIC HEARING FOR PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 TO _____, 2006, TO BE HELD AT 9:00 A.M. IN THE REGIONAL PLANNING COMMISSION HEARING ROOM IN DOWNTOWN LOS ANGELES.

If the Commission finds that the Burden of Proof is met:

I MOVE THAT THE REGIONAL COMMISSION CLOSE THE PUBLIC HEARING AND EXPRESS ITS INTENT TO APPROVE PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 AND FOR STAFF TO PREPARE FINDINGS AND CONDITIONS AND THE FINAL ENVIRONMENTAL DOCUMENT.

If the Commission finds that the Burden of Proof is not met:

I MOVE THAT THE REGIONAL COMMISSION CLOSE THE PUBLIC HEARING AND EXPRESS ITS INTENT TO DENY PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 AND FOR STAFF TO PREPARE FINDINGS FOR DENIAL.

If you have any further questions, feel free to contact me at (213) 974-6435.or by e-mail at rfricano@planning.co.la.ca.us. Department office hours are Monday through Thursday, from 7:00 a.m. to 6:00 p.m. The Department is closed on Friday.

RJF

2-23-06

Attachments:

Public Comment
Parking Management Plan and Parking Analysis
Response to Environmental Comments
Renderings of On-site Parking Layout
Signage Analysis

MARINA STRAND COLONY II

Parking Review

Houses on Via Dolce From Dell St. (Private Alley) To North Complex Driveway

West Side: 24 (Indiv. Residences)

East Side: 68 (MSC II)

Total: 92 Residences/Units

Street Parking on Via Dolce (Same parameters as above)

West Side: 20 spaces

East Side: 44 spaces

Total: 64 spaces

Less than one space (0.7) per residence/unit to accomodate additional owner's vehicles, help, repairmen, visitors etc.

It is almost impossible to find street parking especially evenings and weekends

Probable causes: propensity of SUVs too wide/tall to fit in our 16' wide by 6.5' tall garages, increasing number of HO with more than two vehicles, garages not utilized to capacity, beach parking, Cheesecake Factory and other restaurant parking, MSC IV & III employee parking, Silver Strand household help parking, persons not living in area storing multiple vehicles on Via Dolce with for sale signs displayed, etc

Situation will get worse when west side of Via Dolce is completely built up (another 3-4 residences)

Jan. 23, 2006

DANIEL CHRISTY

310. 306. 2995

3752 VIA DOLCE
MDR,

Address	Number of Units	Type
4141 S. Glencoe	50	Condo
4050-4054 S. Glencoe	77	Condo
4060 Glencoe	96	Condo
4080-4092 S Glencoe	100	Condo
300-346 W. Washington Blvd	42	Live/Work
3100-3210 S. Grand Canal	81	Condo
	51	Townhouse
	30	Podium Units
13480 Maxella (Ocean Walk/Villa Marina)	244	Condo
	9,000 ft	Commercial
Harbor House/Edie's Diner	292	Apartments
Palawan Way adjoining above project	125	Apartments
Via Marina and Marquesas Way	562	Apartments
	161	Boat Slips
Woodfin Suite Hotel	178	Hotel Rooms
	108	Time Share
Neptune Marina	531	Apartments
The Waterfront/Marina Beach	292	Apartments

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COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 890-4330

RECEIVED
JAN 30 2006

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

January 24, 2006

Mr. Rick Kuo
Department of Regional Planning
Impact Analysis Section
320 West Temple Street
Los Angeles, CA 90012

Dear Mr. Kuo:

DRAFT ENVIRONMENTAL IMPACT REPORT, THE SHORES PROJECT, SCH #2005071080, COUNTY PROJECT #R200500234/RENVT200500040, "MARINA DEL REY" – (FFER #200500226)

The Draft Environmental Impact Report has been reviewed by the Planning Division, Land Development Unit, and Forestry Division of the County of Los Angeles Fire Department. The following are their comments:

LAND DEVELOPMENT UNIT:

1. The Fire Prevention Division, Land Development Unit has no additional comments regarding this project. The conditions that were addressed in EIR #200500101, dated June 9, 2005, have not been changed at this time.

2. The County of Los Angeles Fire Department, Land Development Unit appreciates the opportunity to comment on this project.

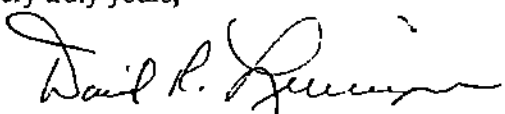
FORESTRY DIVISION – OTHER ENVIRONMENTAL CONCERNS:

1. The statutory responsibilities of the County of Los Angeles Fire Department, Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance.

2. The areas germane to the statutory responsibilities of the County of Los Angeles Fire Department, Forestry Division have been addressed.

If you have any additional questions, please contact this office at (323) 890-4330.

Very truly yours,



DAVID R. LEININGER, CHIEF, FORESTRY DIVISION
PREVENTION SERVICES BUREAU

DRL:lc

Lynne Shapiro
5100 Via Dolce #312
Marina del Rey CA 90292

Los Angeles County Department of Regional Planning
Att: Mr. Rick Kuo
320 West Temple Street
Los Angeles CA 90012

Fax: 213 626 0434

I wish to express my opposition to the number of high rise apartment complexes that are being built on the west side of the Marina, along Via Marina. To go from 151 vehicles to 816 in just ONE of these Buildings ("The Shores") portends horrible traffic for those of us who reside in this portion of Marina del Rey.

I am currently paying $5000 in annual property tax, and I do not wish to pay this kind of money to be robbed of the sunlight, the fresh air and the quiet for which I invested in this property. Build new buildings, yes, but not to levels of 100 feet which will block out sky and sunlight and create huge and dangerous amounts of traffic going in and out of the Marina. Very few residents work here. We travel long distances to our work. The 405 and Lincoln Blvd. have already added at least 40 minutes to our commute and with your "planning", we shall have to fight traffic in our own backyards!

Given the number of building projects, including larger boat-slips and Fiji Way renovation, there will be plenty of income for the County and for the builders without *destroying the civility of our lives in the Marina.*

I beg you to scale down The Shores on Via Marina, especially since a new huge residential complex is planned for the corner of Washington and Via Dolce. The traffic will be horrific.

Lynne Shapiro

Lynne Shapiro
310-578-6617

Your Name Harriet Epstein - Falkin
Address 3696 Via Dolce
City, State MDR, Calif 90292
Telephone numbers (310) 306-2940

RECEIVED
FEB 21 2006

Mr Rick Kuo
Los Angeles County of Regional Planning
320 West Temple Street
Los Angeles, Ca. 90012

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo:

We are the homeowners of Via Dolce, Marina del Rey, CA 90292 and long time residents of Marina del Rey.

We are writing to object to the planned "The Shores" Project. Project #R2005-00234-(4).

This project would be located immediately east of our condominium complex. It is out of scale with all of the structures surrounding it. These other structures are two and three stories high. Our complex, Marina Strand Colony II, is composed of townhouses two stories high over a garage.

The Shores Project proposed height of 100 feet (75 feet plus 25 feet of selected artistic architectural features) is much too high. It will adversely affect the air circulation, which is primarily in the east-west direction coming from the ocean or the shore. More importantly it will significantly reduce hours of the available sunlight on the eastside of our complex. These are significant averse impacts on the residents of our complex, especially on the east side.

We recommend that to alleviate these impacts the height of the Shores Project should not exceed 50 feet including any additions for screening equipment and artistic architectural features.

The current design of The Shores Project appears to call for the exit of the project to be right turn only on Via Marina. This would bring most of the traffic to Marquesas Way and Via Dolce which is front of our complex and where our driveway exits are located. This is a hazardous situation because our exits are on a curve with poor visibility of on coming traffic. The additional traffic generated by The Shores Project will significantly increase this hazard. Our recommendation to solve this problem is to either arrange the traffic flow from The Shores Project to exit directly on to Via Marina with a left turn allowed or to reduce the number units to reduce the traffic on Via Dolce.

Currently many visitors to Del Rey Shores park on Via Dolce because there is insufficient visitor parking spaces. Also some of the Del Rey Shores residents with more

vehicles than parking spaces also park on Via Dolce. Often times if we have guest, we park our cars on the street to reserve space for them. Since parking is limited on Via Dolce, this creates a problem for those living on Via Dolce and their visitors. The higher density of the Shores Project (over two and one half times the current density) would severely aggravate this problem. Our proposed solution is to reduce the number of units or to insure a sufficient amount of designated parking at the Shores Project.

Thank you for your consideration of this matter.

Sincerely,

Your Name Harriet Epstein - Falkin

RECEIVED
FEB 21 2006

HOLIDAY
3806 VIA DOLCE
MARINA DEL REY, CA 90292

Mr Rick Kuo
Los Angeles County of Regional Planning
320 West Temple Street
Los Angeles, Ca. 90012

RE: The Shores Project, Project #R2005-00234-(4)

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Thank you for your consideration of this matter.

Sincerely,

BRUCE AND ELAINE HOLIDAY

ARMBRUSTER & GOLDSMITH LLP
LAND USE ENTITLEMENTS □ MUNICIPAL ADVOCACY
10940 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CALIFORNIA 90024

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WEB: www.AG-LandUse.com

February 22, 2006

VIA E-MAIL

The Honorable Regional
Planning Commission of the
County of Los Angeles
320 West Temple Street, 13th Floor
Los Angeles, CA 90012

Re: The Shores Project (County Project No. R2005-00234-(4); Coastal Development Permit No. RCDP 200500002; Parking Permit No. RPK 200500004; and Variance No. RVAR 200500004)

Dear Commissioners:

We represent Del Rey Shores Joint Venture and Del Rey Shores North Joint Venture, the applicants in the above referenced matters. Our clients are seeking the above approvals to construct a 75-foot in height, 544-unit apartment project, related parking and other improvements (the "Project") on Parcels 100 and 101 (the "Property"), as defined in the Marina Del Rey Land Use Plan ("LUP").

We are writing on behalf of our clients to respond to a letter dated January 20, 2006, by Mr. Richard I. Fine on behalf of Marina Strand Colony II Homeowners Association, which makes various allegations in opposition to the Project and the County's draft environmental impact report ("DEIR") for the Project. Mr. Fine's letter consists entirely of unsupported allegations, speculation, opinion and mis-statements of fact and law. Nonetheless, we have prepared the following point-by-point response in the interest of providing the most complete record possible for the Regional Planning Commission's consideration of the Project.

A. Discussion.

1. The County Has Full Authority to Continue Its Review of, and to Act on, the Project Application While the Coastal Commission Completes its Periodic Review of the Marina Del Rey Local Coastal Program.

On page 3 of his letter, Mr. Fine incorrectly asserts that the Coastal Commission's periodic review of the Marina del Rey Local Coastal Program ("MDR LCP") "was completed on May 25, 2005." In point of fact, the Coastal Commission's periodic review of the MDR LCP is ongoing as the Commission has neither acted on the various recommendations of its staff concerning the periodic review, nor submitted any formal recommendations to the County suggesting how the MDR LCP may possibly be in need of future updating. (The May 25, 2005 date incorrectly referenced by Mr. Fine was simply the date of the Coastal Commission staff's

"preliminary report" to its Commissioners regarding the Marina del Rey Periodic LCP Review.) Therefore, a primary thesis of Mr. Fine's letter is wrong; namely, that the County's review of the Project must be stayed pending completion of a new project DEIR that is reflective of the various Coastal Commission recommendations stemming from its periodic review of the MDR LCP.

Section 30519.5 of the Coastal Act provides the authority for the Coastal Commission to periodically review certified Local Coastal Programs; in relevant part, the Section reads:

a) *The commission shall, from time to time, but at least once every five years after certification, review every certified Local Coastal Program to determine whether such program is being effectively implemented in conformity with the policies of this division.* ***If the commission determines that a certified Local Coastal Program is not being carried out in conformity with any policy of this division, it shall submit to the affected local government recommendations of corrective actions that should be taken.*** *Such recommendations may include recommended amendments to the affected local government's Local Coastal Program;*

b) *Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.* [Emphasis added.]

From the above, it is clear that the Coastal Commission's periodic review of the MDR LCP will unfold in defined stages, as follows:

(1) The Coastal Commission staff prepares a preliminary report to its Commission with an analysis of the issues and suggested recommendations for updating the MDR LCP, which the Commission then considers and ultimately acts on;

(2) The Coastal Commission formally submits to the County its set of recommended changes to the MDR LCP the Coastal Commission believes would bring the LCP into better conformity with the Coastal Act;

(3) The County considers the Coastal Commission's recommendations and initiates LCP amendments to implement such recommended changes to the MDR LCP; or, if the County decides against implementing some or all of the Coastal Commission's recommended changes, then, within one year, the County must formally respond to the Coastal Commission with reasons why it is not taking action to implement the Commission's recommendation changes to the MDR LCP; and

(4) If the County advises the Coastal Commission that it is not adopting some or all of the Commission's recommended changes to the MDR LCP, then the Coastal Commission may either accept the County's rationale for not adopting its recommendations, or the Coastal Commission may appeal to the State Legislature for legislative action necessary to assure effective implementation of Coastal Act policies.

The periodic review process for the MDR LCP is currently in stage 1 above. The entire process will take an indeterminate amount of time to be completed, but could potentially take several years to run its course (in the event the County chooses not to implement some or all of the Coastal Commission's forthcoming recommendations and the Coastal Commission, in turn, chooses to appeal to the State Legislature for relief). State law contains no express or implied directives prohibiting the County from processing development applications during the periodic review process. Therefore, contrary to Mr. Fine's assertions, the County retains full authority to consider and act on the Project application while the lengthy periodic review process unfolds for the MDR LCP.

2. <u>The Project Will Comply with all Applicable Building Codes</u>.

Mr. Fine asserts that the DEIR is inadequate because it does not address the requirements of Los Angeles County Building Code Sections 110.3 and 110.4, which respectively pertain to fills containing decomposable material and methane gas hazards. The DEIR expressly contemplates the Project's compliance with all applicable County Building Code requirements, including Sections 110.3 and 110.4, as applicable. In fact, Mitigation Measure No. 5 1-15 specifically references Building Code Section 110.4.

The Project will undergo extensive review by the County as part of the normal building permit process, and as part of this process the applicants will be required to prepare any and all required studies or reports and implement such other measures as may be required under Sections 110.3 and 110.4. The County will review all building plans and any required reports for compliance with all of the technical code requirements prior to issuing any grading or building permits.

Mr. Fine also expresses concern that oil wells on the Property may be plugged or abandoned. California Public Resources Code Section 3200, et. seq. regulates the permitting, establishment, completion, and abandonment/reabandonment of gas and oil wells. The California Department of Oil, Gas and Geologic Resources ("DOGGR") is the state agency with primary responsibility for the enforcement of these regulations. DOGGR is also the state agency responsible for conducting site plan reviews for development proposed in the proximity of gas or oil wells. The County requires completion of a construction site plan review by DOGGR to confirm the location and condition of wells (i.e., testing for leaks and evaluation as to proper abandonment) prior to issuance of grading or building permits. In connection with its review, DOGGR may require reabandoment of previously abandoned wells. In the event additional

wells or casings are found during excavation and grading activities, DOGGR may require proper abandonment. Furthermore, if existing well casings need to be altered in connection with site excavation and grading, DOGGR approval would be necessary. Therefore, compliance with existing regulations will assure that there are no significant environmental impacts with respect to any existing oil wells on the site, and no further analysis or mitigation measures are necessary.

Mr. Fine correctly notes that the site may be underlain with fill materials. Of course, it should be noted that the existing apartment complexes have existed on the site for approximately 40 years, without any incident or cause for concern. Some of the existing fill will be removed in connection with excavation of the site to construct the parking structures. If any hazardous materials are found, they would be deposited in a Class 2 landfill. To the extent that any remaining fill is improperly compacted, such fill will be removed and recompacted pursuant to the recommendations of the detailed geotechnical analysis to be reviewed and approved by the County as part of the normal building permit process. Therefore, the Project will not result in a significant environmental impact resulting from fill which may underlie the site. No further analysis or additional mitigation measures are warranted.

3. <u>There is No Significant Risk to Human Health or Safety Resulting from Possible Methane Gas</u>.

Mr. Fine asserts that the Project is "above" the Southern California Gas underground storage site. In fact, this facility is located 1.1 miles away from the Project site. As set forth at page 5.1-6 of the DEIR, soil gas testing conducted on April 21 and April 22, 2005 by URS did not find any measurable quantities of VOCs or methane in the soils of the Project site. Therefore, impacts associated with soil gases at the Project site will be less than significant. No further analysis or additional mitigation measures are warranted.

4. <u>The DEIR Adequately Analyzes Potential Seismic Safety Impacts</u>.

Mr. Fine argues that the Project should be designed to withstand an earthquake with a magnitude of 8.0 based on certain unspecified "predictions." Appendix C to the URS Geotechnical Report (which is itself attached as Appendix 5.1 to the DEIR) contains an extensive discussion of the earthquake faults in the vicinity of the Project site and concludes that the maximum credible earthquake from these faults would have a magnitude of 6.9. Mr. Fine offers no evidence, credible or otherwise, of a possible earthquake of greater magnitude. Furthermore, the Project will be designed in accordance with the most current State and County seismic safety requirements. As a result, the Project will be safer in an earthquake than the existing apartment units on the site. As the Project will not result in a significant impact with respect to seismic safety, no further analysis or additional mitigation measures are warranted.

5. The DEIR Adequately Analyzes Potential Noise Impacts.

Mr. Fine alleges that the DEIR is deficient because it does not discuss the noise impacts from approximately 2,000 automobile trips per day on Dell Avenue and stationary equipment, such as fans and air conditioning equipment, on his client's condominiums. As set forth in Section 9 below, the Project will only add about 215 to 220 daily vehicle trips to Dell Avenue. Impact Sciences, the firm that prepared the DEIR on the County's behalf, has concluded that this small amount of additional vehicle trips will only minimally increase noise along the alley, well below the threshold of significance of 3 dB(A). The Del Rey Shores Personal Warehouses will act as a noise buffer to further reduce noise at the condominiums, which are located to the west of the warehouses.

Contrary to Mr. Fine's assertions, the DEIR expressly considered potential operational noise impacts, including noise from fans and air conditioning units. Page 5.2-17 of the DEIR states that noise levels generated by these sources would typically be between 52 to 62 dB(A) CNEL. Such noise levels are typical of a residential area and comparable to the level of noise presently generated by the existing apartments on the Property. The DEIR therefore concludes that the Project will not result in significant noise impacts on adjacent uses. No further analysis or additional mitigation measures are warranted.

6. The DEIR Adequately Analyzes Potential Wind Impacts.

Mr. Fine contends that the DEIR's analysis of wind impacts, based on the March 30, 2005 RWDI wind study, is flawed. The RWDI wind analysis utilized a sophisticated wind tunnel model that was instrumented with 44 wind sensors on Basin B, C, and D, and considered potential impacts from winds at various speeds and from various directions, including from the west. The study concluded that the Project will not affect existing wind conditions in Marina Del Rey, including Basin C. No additional analysis or additional mitigation measures are warranted.

7. The DEIR Adequately Analyzes Potential Air Quality Impacts.

Mr. Fine asserts that the DEIR is flawed because it does not discuss the effect on air quality of approximately 2,000 automobile trips per day on Dell Avenue. As set forth in Section 9 below, the Project will only add about 215 to 200 automobile trips to Dell Avenue. The DEIR concludes that the Project's operational emissions, including emissions from project-generated traffic, will be well below the SCAQMD thresholds of significance. See DEIR Table 5.4-10.

The DEIR also considers potential impacts due to carbon monoxide (CO) concentrations resulting from both Project and cumulative traffic. As set forth in DEIR Table 5.4-11, CO concentrations at the seven identified intersections, which will be much more heavily

traveled than Dell Avenue (which is a private alley), will be well below the state and federal one-and-eight-hour CO standards. The analysis shows that there will be no CO "hotspots" at or near these intersections in the future and that the contribution of Project traffic-related CO at these intersections would not be considered significant. As the Project will not result in significant air quality impact, no further analysis or additional mitigation measures are warranted.

8. The Project is Compatible With Existing and Proposed Development in the Project Vicinity.

Mr. Fine alleges that the Project is incompatible with the surrounding area based on page 5.5-1 of the DEIR, which notes that the height and massing of the Project will be greater than existing uses to the south and west of the Project site. Mr. Fine fails to mention that the adjacent apartment complex to the north is approximately 150 feet tall or that the Project will be consistent with the height and massing standards defined in the LUP. At 75 feet, the Project is approximately 150 lower, or approximately 15 stories, than the maximum permitted height of 225 feet under the LUP.

New development recently completed at the southeast corner of Via Marina and Bora Bora Way is four stories above parking, with a building height of approximately 65 feet. New development currently under construction south of Marquesas Way and at the Marquesas Way mole terminus ranges in height from 55 feet on the mole portion to 65 feet on the non-mole portion. New development recently approved on Marina Del Rey Parcel 15 also ranges in height from 55 to 65 feet. Therefore, the Project is consistent with both existing and proposed development in the Project vicinity. Moreover, the Project will be subject to design review to assure that any potential impacts from the increased height and massing on the site are reduced to a less than significant level. Therefore, no further analysis or additional mitigation measures are warranted.

9. The DEIR Properly Assesses Both Project and Cumulative Traffic Impacts.

Mr. Fine alleges that there is a 32,000 vehicle per day difference between the daily traffic volumes on Lincoln Boulevard as set forth in the DEIR and the traffic volumes for that roadway included in the LCP review. There is in fact no such difference. Page 14 of the traffic study, which is attached as Appendix 5.6 to the DEIR, states that Lincoln Boulevard carries approximately 60,000 vehicles per day. Daily traffic varies by 3,000 to 5,000 vehicles per day north and south of the SR 90, with traffic volumes south of the SR 90 lower than those to the north.

Mr. Fine also contends that the LCP establishes a trip cap of 2,812 evening peak hour trips and seems to imply that the Project should not be approved even if it falls within this trip cap limit. Actually, the LCP identified a p.m. peak hour trip cap for Marina Del Rey Second Generation development (of which the Project is a part) of 2,750 vehicle trips. The approved

development densities and land uses in the LCP area correspond to this number of trips. The traffic study for the LCP fully evaluated the trip-making potential of the Marina Second Generation development and identified local and regional traffic improvements to address the potential impacts of these trips. New development projects within the Marina are assessed a trip fee of $5,960 per p.m. peak hour trip in order to fund the identified improvements.

The DEIR includes an analysis of all past, present and reasonably foreseeable future developments within Marina Del Rey area for consistency with the overall LCP development limits. Page 5.6-13 of the DEIR shows that all of the Second Generation development, including the Project, would result in a combined total net new p.m. peak hour trips generation of only approximately 681 trips, or less than 25% of the remaining total allowable development.

Mr. Fine argues that the LCP review's forecast of future traffic increases along Lincoln Boulevard is inconsistent with the DEIR. To analyze future traffic conditions at Project buildout, the DEIR adjusted existing traffic counts by 0.6% per annum to reflect ambient growth. In addition, the DEIR considered traffic generated from the 24 other related projects identified in the DEIR, including developments both within and outside Marina Del Rey. The DEIR's traffic analysis, which is consistent with County methodologies, provides a reasonably accurate forecast of future 2009 traffic conditions.

Mr. Fine asserts that based on a letter from Caltrans, the DEIR should have analyzed future traffic conditions in the year 2025. The traffic analysis in the DEIR was prepared under the guidelines established by the lead agency, the County of Los Angeles, and analyzed future conditions upon Project completion in 2009. Caltrans' request for a year 2025 analysis reflects Caltrans' standard analytical procedures for state facilities. The County determined that this requirement was not appropriate for the Project. Please note that the DEIR identifies potential impacts on all nearby state facilities, including Lincoln Boulevard and the SR 90, and recommends mitigation measures where appropriate.

Mr. Fine alleges that the trip generation rates used in the traffic analysis are out of date. These rates were based on data from DKS Associates 1991 Traffic Analysis of the proposed Marina Del Rey Second Generation development. DKS derived these rates, which are contained in the currently certified LCP, from actual traffic counts from various existing developments within the Marina. The Los Angeles County Department of Public Works ("LACDPW") considers this information still accurate and viable and requires it to be used in traffic studies in Marina Del Rey.

In asserting that the DEIR contains conflicting information regarding the number of trips generated by the Project, Mr. Fine appears to confuse gross and net new trips. As set forth at Table 5 of the traffic analysis prepared by Crain & Associates, the Project will generate 2,154 gross daily, 190 gross a.m. peak hour, and 177 gross p.m. peak hour trips. After taking

in account the reduction in trips from the demolition of the existing 202 apartment units on the Property, the Project will only result in 1,354 net new daily, 120 net new a.m. peak hour, and 111 net new p.m. peak hour trips.

Mr. Fine also asserts, without any factual support, that the Project will result in approximately 2,000 daily trips on Dell Avenue, which is a private alley. This number is clearly erroneous. According to Crain & Associates, the Project will only result in a total of about 215 to 200 additional daily trips on Dell Avenue, and only 14 additional a.m. peak hour and 20 additional p.m. peak hour trips. Only three of the six Project driveways are located on Dell Avenue. Two of the three driveways located on Dell Avenue will be in close proximity to Muquesas Way, so that Project traffic will only travel a short distance along Dell Avenue. Furthermore, existing traffic on Dell Avenue, a private alleyway, is light. Therefore, no significant adverse impacts on Dell Avenue are anticipated, and no further analysis or additional mitigation measures are warranted.

10. <u>The Proposed Project Will Not Result In Any Significant Impact on Law Enforcement Services.</u>

Based on a letter from the Sheriff's Department sent in response to the Notice of Preparation, Mr. Fine alleges that the Project will result in a significant impact on the law enforcement services. This letter has been superceded by the Department's January 19, 2006 letter, which was prepared after the Sheriff's Department had the opportunity to review the DEIR. In the January 2006 letter, the Sheriff's Department concluded that "the DEIR has satisfactorily addressed" potential impacts on the Sheriff's Department. While the Sheriff's Department anticipates an increase in calls for service proportional to the increase in population from the Project, the Department does not anticipate that the increase in calls would be so great as to require the permanent assignment of additional patrol cars to Marina Del Rey.

The Project will reduce potential impacts on law enforcement services through the incorporation of security features into the Project design, such as the use of appropriate landscape materials and building orientation. These features include parking area lighting, deadbolts at each residential entry door, controlled access, and pre-wiring of residential units with the installation of alarm systems.

As part of normal building permit process, the Sheriff's Department will also review the site design with respect to lighting, landscaping, building access and visibility, street circulation, building design and defensible space. Incorporation of the Department's recommendations will further reduce potential impacts on law enforcement. With the incorporation of safety design features into the Project, potentially significant impacts on law enforcement services would be reduced to a less than significant level. No further analysis or additional mitigation measures are warranted.

11. The DEIR Conservatively Concluded That the Project May Result in a Solid Waste Impact After 2017 if No New County Facilities Are Identified.

As set forth at page 5.7-15 of the DEIR, the Project would generate approximately 400 tons of net new solid waste per year, but only approximately 200 tons per year with recycling. The DEIR states that, according to the LACDPW, the County's landfills have adequate capacity to serve the existing population and planned growth until the year 2017, and capacity will likely extend well beyond that year. It is reasonable to assume that solid waste disposal facilities or other options will be available in the future. However, because an adequate supply of landfill space has not yet been approved for beyond 2017, the DEIR conservatively concluded that the Project and the related projects would result in a significant cumulative impact with respect to solid waste. The Regional Planning Commission will therefore need to adopt a statement of overriding considerations.

12. The Project Will Not Result In Any Significant Impacts With Respect to Sewer or Water Service.

Mr. Fine implies that the Project will result in significant impacts on sewer and water service. Water impacts are analyzed in Section 5.8 of the DEIR. Page 5.8-7 of the DEIR states that approximately 1,050 lineal feet of the 10-inch water main occurring along Marquesas Way and Dell Avenue need to be upgraded to a 12-inch main to satisfy the fireflow requirements of the County Fire Department of 3,500 gallons per minute. Mitigation Measure No. 5.8-1 provides that, prior to the issuance of occupancy permits, the Project shall improve, to the satisfaction of LACDPW, water lines on Marquesas Way and Dell Avenue. In addition, Mitigation Measure No. 5.8-3 requires the Project building plans to include conservation measures to reduce water demand.

Sewer impacts are analyzed in Section 5.9 of the DEIR. Page 5.9-7 of the DEIR summarizes the sewer capacity study prepared by Psomas in 2005. That report concluded that there is ample capacity in the existing sewer lines in the Project vicinity. Nonetheless, Mitigation Measure No. 5.9-1 requires the applicants to demonstrate sufficient sewer capacity for the Project by providing a will-serve letter from LACDPW's Waterworks and Sewer Maintenance Division. (The applicants have already received this letter.) In addition, the Project will be required to pay a one-time sewer facilities charge to the County to account for the increase in sewage generation. Such fees will be used to fund the expansion of sewer facilities. Therefore, the Project will not result in any significant impacts with respect to water or sewer service. No additional analysis or mitigation measures are required.

13. The DEIR Adequately Analyzes Cumulative Sewer Impacts.

Mr. Fine asserts that the DEIR does not discuss potential cumulative sewage impacts. In fact, page 5.9-10 of the DEIR states that the Project and the related projects will generate approximately 1,480,904 gallons per day of wastewater. Under current County requirements, each project will be required to ensure that adequate capacity in the receiving trunk sewers and receiving wastewater treatment plant exists to accommodate the effluent generated by that use. Additionally, each project will be required to pay a connection fee that will be used fund expansions needed to accommodate growth. Therefore, the Project and related projects will not result in a significant cumulative impact on sewer service. No additional analysis or mitigation measures are required.

14. <u>The Alternatives Analysis in the DEIR Complies with All CEQA Requirements</u>.

Mr. Fine argues that the applicants should discuss an alternative of a smaller project extending 50 to 60 feet above ground with subterranean parking. In fact, the DEIR already includes a smaller project alternative, Alternative No. 3. Under that alternative, the existing apartment buildings would be rehabilitated and an additional floor added for a total height of 3 stories. This would yield approximately 303 total apartment units, or a net increase of 101 units, at a lower height than suggested by Mr. Fine. This smaller project alternative was selected to avoid the significant construction noise and air quality impacts of the Project which would result from the construction of a partially subterranean parking structure.

Unlike Alternative No. 3, the smaller project proposed by Mr. Fine (which would involve new construction as opposed to rehabilitation) would fail to avoid any of the significant Project impacts identified in the DEIR. As Mr. Fine's alternative would involve more grading and excavation than the Project due to fully subterranean parking structures, it would have at least the same, and likely greater, construction air quality and noise impacts. In any event, Mr. Fine's smaller project alternative would provide fewer units and would therefore not meet the project objectives as fully as the proposed Project.

CEQA Guidelines Section 15126.6 requires that the DEIR describe a reasonable range of alternatives to the Project which would feasibly attain most of the basic objectives of the Project but which would avoid or substantially any of the significant effects of the project. "An EIR need not consider every conceivable alternative project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation." CEQA Guidelines Section 15126.6(a). As set forth above, the alternative suggested by Mr. Fine would not avoid or substantially lessen any of the significant effects of the Project, but would result in greater air quality and noise impacts than the Project. Furthermore, because the DEIR already includes a reduced project alternative, Mr. Fine's alternative would not foster informed decision-making and public participation in accordance with CEQA's stated goals. Therefore, the DEIR need not analyze Mr. Fine's alternative.

B <u>Conclusion</u>.

For the reasons set forth above, none of the unfounded assertions in Mr. Fine's letter present any important new information regarding the Project or its environmental impacts or call into question any of the analyses or conclusions contained in the DEIR. We therefore respectfully request that the Regional Planning Commission certify the EIR and approve the Project.

Thank you for your consideration.

Very truly yours,

Dale J. Goldsmith

cc: The Shores
Aaron Clark
Marina Strand Colony II Homeowners Association

DJG:rsg

RECEIVED
FEB 21 2006

To: County of Los Angeles Department of Regional Planning
Attn: Rick Kuo

February 17, 2006

From: Bruce Holiday, 3806 Via Dolce, Marina Del Rey, CA 90292 310-823-2469

RE: The Shores Project, Project #R2005-00234-(4)

Dear Mr. Kuo,

I am opposed to the proposed project being built as planned for reasons that follow:

The proposed height of the building is grossly out of character with all the buildings surrounding it with only one exception. The existing buildings to the east are currently only 2 stories high or are car ports with no construction above them. The buildings to the west are also 2 or 3 stories. The same applies to buildings to the south of the proposed project. With only one exception, all the buildings to the north of the project are also just 2 or 3 stories. Only one building to the north (Kingswood) is about 200 ft. tall. I propose that the new project be no more than 4 stories tall including parking levels, with no added architectural elements, in order to be more in character with the buildings in the surrounding area and not almost four times taller than the buildings presently on the site.

The number of dwelling units in the proposed project will create a significant negative impact on traffic in the area. This is a fact that does not need to be elaborated.

The proposed project is also asking for Excessive Signage. I am opposed to that for aesthetic reasons. None of the adjacent buildings have excessively large signs.

I am opposed to the additional Architectural Elements that will be added to hide mechanical equipment on the roof. These units should be enclosed within the building itself and not put on the roof. If the project were made to scale to the surroundings, the huge industrial type heating and air conditioning units would not be needed. Typical individual heating/cooling units could be used if the project were reduced in size. Hot water boilers could also be placed in enclosed areas on the grounds of the property.

Adding this many new people to the area will also overtax the existing retail stores in the neighborhood. There is very little new retail space added in the area and we are also losing a huge existing area of retail stores at Maxella and Lincoln streets. Many stores have been closed and are being redeveloped as condominiums. This area does not have space to add any more retail stores. The number of people added to the area needs to be closely monitored to make sure that existing residents and new residents have easy access to stores and services.

We would like to keep the quality of life that we are enjoying now. It appears that the County and the greedy developers have no regard for the wellbeing of the present residents of the area at all.

Bruce Holiday

Bruce Holiday

WALKER
PARKING CONSULTANTS

Walker Parking Consultants
2550 Hollywood Way, Suite 303
Burbank, CA 91505

Voice: 818.953.9130
Fax: 818.953.9331
www.walkerparking.com

February 15, 2006

David Gaulton
President
Pacific Development Services
21515 Vanowen Street, Suite 101
Canoga Park, CA 91303

Re: Shores Project
Parking Management Plan

Dear Mr. Gaulton:

Walker Parking Consultants is pleased to present the following parking management plan for the Shores apartment complex project, proposed to be developed in Marina Del Rey, California.

Should you have any questions regarding this report, please do not hesitate to call us.

Sincerely,

WALKER PARKING CONSULTANTS

William E. Francis
Vice President

Rio J. Lupisan
Parking Consultant

SHORES APARTMENT COMPLEX PROJECT
PARKING MANAGEMENT PLAN

INTRODUCTION

The Shores Project (Project), located at 4201 Via Marina in Marina Del Rey, CA, is a 544-unit apartment complex project that will offer one- and two-bedroom units in a total of twelve structures. The Project will be served by a two-level garage that will provide parking for residents and guests. Most of the residential parking spaces are located on the entire Lower Level of the garage, which can be accessed via one of three driveways off of Dell Avenue. The remaining balance of resident spaces is located on the Upper Level, which can be accessed from a driveway off of Panay Way. Another entrance into the garage is provided off of Panay Way for direct access into the Upper Level parking area dedicated strictly for guests.

The Project is required by the County of Los Angeles (County) to provide a total of 952 resident spaces for the 271 one-bedroom units (271 x 1.5 spaces/unit) and 273 two-bedroom units (273 x 2.0 spaces/unit), along with 136 residential guest spaces (544 x .25 spaces/unit), for a total of 1,088 parking spaces.

PROPOSED PARKING LAYOUT

The two-level garage consists of 90-degree parking with two-way circulation on both levels. Standard and compact spaces are proposed throughout the garage, configured as single and tandem parking stalls. Tandem stalls do not exist in the guest parking area, but rather, have been distributed on both levels of the garage for use by residents. Some of these tandem stalls provide parking for two standard vehicles, although most have been designed to accommodate one standard and one compact vehicle.

As required by the County code, the standard and compact stalls are provided at lengths of 18'-0" and 15'-0", respectively, while the width of each compact space is identical to the width of a standard space at 8'-6". With 26'-0" drive aisles, the total width of the parking bays are 62'-0" or 59'-0", depending on whether standard stalls are provided on both sides of a drive aisle or compacts, shorter in length by 3'-0", are provided on one side. In those areas of the garage in which tandem parking is proposed, the parking bay widths are increased by the length of the additional standard or compact space.

The table on the following page summarizes the Project's proposed parking supply for residents and guests by location and type.

Table 1: Proposed Parking Inventory

PARKING AREA	Standard (S)	Compact (C)	Accessible (A)		
UPPER LEVEL					
Guest Parking					
	93	19	7		
				119	
Residential Parking					
	108	31	11		
Tandem S/C	76	76			
Tandem S/S	26				
	210	107	11	328	
	303	126	18		447
LOWER LEVEL					
Residential Parking					
	226	62			
Tandem S/C	140	140			
Tandem S/S	56				
	422	202			624
SURFACE PARKING					
Guest Parking					
	17				
	17				17
Total	742	328	18		1,088
		30.1%			

METHOD OF OPERATION

ACCESS CONTROL EQUIPMENT

In order to protect the Project's parking supply and control parkers within the garage, access control equipment in the form of card readers and gate arms will be installed in all of the entrance and exit lanes to and from the residential parking areas of the garage. The installation of card readers will ensure that those attempting to park in these areas will be authorized. The gate arms will prevent vehicles from proceeding into or out of the garage without proper authorization or follow through of entry/exit procedures. Residents will be issued keycards for use at the card readers, while guests will utilize an intercom system for access into the designated guest parking area. Rolldown gates will also be installed in each of the access-controlled lanes for after-hours use.

GUEST PARKING

The designated guest parking area is provided in the portion of the garage located closest to Via Marina. Parking spaces will also be available prior to entry into the garage, as well as in a small parking area off of Panay Way. As guests enter from the driveway off of Panay Way and approach the garage, they will encounter access control equipment, which will allow property management to control the guest parking area and prevent unauthorized parking by residents.

Guests will be required to interact with an intercom system in the entrance lane, which will connect them directly to the on-site property management office. Upon verification of the residential guest, the gate arm will be opened remotely. Any attempt for residents to park within the guest parking area will be denied. As guests exit the guest parking area, the gate arm in the exit lane will automatically open as the vehicle crosses a loop sensor installed beneath the ground.

RESIDENT PARKING

Residential parking for the Project, segregated from the guest parking area on the Upper Level, will have separate entrances into the garage and will utilize a keycard system. Residents will be issued keycards, known as proximity cards, to gain access into the garage. A resident will simply need to present their keycard near the card reader in order for the card to be verified and the gate arm raised to allow entry. These entry keycards can also be programmed to provide entry into the residential elevators within the garage area.

Unlike traditional insertion keycards, which as their name implies, need to be inserted into slotted card readers in order to be verified, proximity cards are easier to use in that they need only be presented near, and not into, the card readers. This eliminates the uncomfortable reach and need to manipulate the keycards, resulting in faster processing of vehicles.

Once residents have used their keycards to enter from one of the Lower Level entrances off of Dell Avenue or the designated resident entrance off of Panay Way, the card will be programmed so that the following activity registered on the keycard must be an exit out of garage. Once an attempt is made to use the keycard out of the required sequence of entry and exit, it will be temporarily deactivated and an attempt to pass through a gate arm will be denied. When this occurs, the keycard will have to be reset by on-site property management, at which time a warning could be administered and recorded.

The required sequence of keycard usage is referred to as "anti-passback" mode. Keycards that are programmed with this setting are protected from abuse in that they cannot be "passed back" to another user for a second, unauthorized vehicle entry. The described function of resident keycards accomplishes two things: 1) residents are prevented from allowing their guests to park in the resident parking area; and 2) resident parking activity could be monitored to ensure that issued keycards are being utilized within the residential parking area.

PARKING SPACE ALLOCATION

Single, as well as tandem, parking spaces are distributed throughout the Upper and Lower Level residential parking areas to accommodate the tenants of the one- and two-bedroom units. On-site property management will have complete control over the assignment of parking and will determine the location of space(s), based on the location of unit and needs of the individual tenant. For example, if a one-bedroom tenant owns a single vehicle, a single stall (standard or compact), as opposed to a tandem stall, would be provided. If a tenant owns two vehicles, a tandem stall would likely be provided. Should both of the vehicles be compacts, the option to offer two single compact spaces or a single tandem stall is available.

TANDEM/COMPACT PARKING

As allowed per Section 22.52.1180.B of the County code, tandem parking is allowed to be provided for dwelling units in which two spaces are required. There are a total of 257 tandem parking spaces that are proposed to be provided for the 273 two-bedroom units and about 135 one-bedroom units (half of the 271 one-bedroom units), which totals 408 units that are anticipated to have the need for two spaces.

Of the 257 total tandem parking spaces, 216 have been configured to accommodate one standard and one compact vehicle. While the Project does not exceed the County's maximum allowable provision of 40% compact spaces, the Project's compact parking supply can be viewed as even smaller, considering the fact that compact spaces coupled with standard spaces in tandem are actually more accommodating than single compact parking spaces. Compact parking spaces are typically 15'-0" in length, such as those required by the County, but because most standard vehicles are shorter than the entire length of a standard parking stall, the excess length in a tandem configuration can be credited towards the compact stall.

Walker has studied the trends of changing car sizes over the past 20 years to analyze their impacts on parking geometrics. In doing so, Walker has adopted the 85th percentile vehicle, in the range from smallest to largest vehicle sold, as its design vehicle.

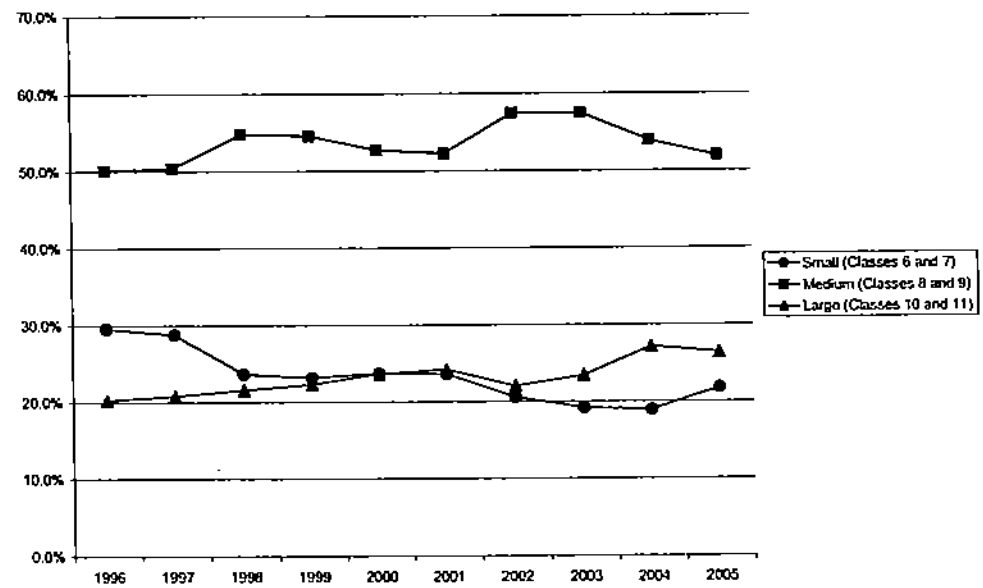
In approaching parking design, Walker essentially assumes that all vehicles parked opposite and on either side of a vacant stall are design vehicles, and yet another design vehicle arrives to park in the stall. Cars larger than the 85th percentile vehicle can still be accommodated in spaces designed using this approach; they simply have less convenience in maneuvering if larger vehicles happen to be parked in the vicinity. The statistical probability, however, is that most of the vehicles parked in the area will be smaller[1].

The current design vehicle used by Walker is 6'-7"x17'-4", equivalent to a Ford F150, and has not changed since 2002 when it was 6'-7"x17'-1", which was then comparable to a Lincoln Navigator. Recent studies seem to indicate that the "long term trend to larger vehicles has

[1] Smith, M., 2005. "20 Years of Vehicle Size Trends: Have We Reached Another Turn in the Road?, page 9.

probably peaked and there is clearly at least the start of a shift to smaller vehicles" (Smith, 2005). The figure below reflects the sales trend of vehicles since 1996.

Figure 1: Vehicle Sales by Size Since 1996



Source: Walker Parking Consultants

The 216 compact spaces that share the total length of a tandem stall make up approximately 66% of the total amount of compact parking spaces for the Project. The remaining 110 compact spaces provided as true single compact spaces essentially makes up about 10% of the Project's total parking supply, which is a very reasonable amount.

Del Rey Shores staff performed a vehicle inventory at the existing project site on a Saturday morning, at approximately 6:00 a.m., to determine the vehicle mix of existing tenants. At the time of the study, there were 93 SUVs/Trucks, 123 four-door sedans, and 79 two-door subcompacts on the grounds with resident stickers. While the exact classification of each of the vehicles is unknown, these figures certainly seem to be consistent with Walker's observation of small vehicles sales.

To the benefit of the proposed compact parking in this particular project is the fact that 62'-0" wide parking bays are provided in those areas with standard stalls (18'-0") on both sides of the drive aisle (26'-0"). Walker employs a Level-of-Service (LOS) approach in evaluating and designing parking using a rating scale ranging from LOS A, which represents the highest level of comfort for users, to LOS D, which represents a less than desirable parking design.

For 8'-6" parking stalls in a 90-degree layout, such as those proposed for the Project, Walker recommends a parking bay width of 59'-6" in order to achieve an LOS C rating, which would be considered average. Since the provided parking bays are 2'-6" wider, they are actually above average in design and in those parking bays that consist of tandem stalls with standards and compacts, vehicles parked in the compact stalls not only benefit from any excess lengths in the joined standard parking stalls, but could hypothetically encroach an addition 2'-6" into the drive aisle, while still maintaining an average level of comfort.

SUMMARY

Upon review of parking space allocation for the Project, Walker has determined that all code-required parking spaces will be provided within the Project's parking facility, with a small amount of excess surface parking also available. Since resident and visitor parking have been designed as segregated areas and will also be access-controlled, on-site property management will have the ability to monitor and fully control use of each of these respective areas. This includes the assignment of the tandem parking spaces, which are distributed throughout each of the parking levels. Lastly, because the Project does provide enough secured, on-site parking for its residents and the visitor parking area provides direct elevator access into the property, it is not foreseen that parking for the Project will impact the surrounding streets.

Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl AICP
Director of Planning

April 13, 2006

TO: Pat Modugno, Chairman
Leslie G. Bellamy, Commissioner
Esther Valadez, Commissioner
Wayne Rew, Commissioner
Harold Helsley, Commissioner

FROM: Russell J. Fricano, Ph.D., AICP
Zoning Permits II

SUBJECT: COASTAL DEVELOPMENT PERMIT NO. 200500002-(4)
PARKING PERMIT NO. 200500004-(4)
VARIANCE NO. 200500004-(4)
Del Rey Shores
Agenda Item No. 9: April 19, 2006 Continued Hearing Date

The above-referenced case is a request to authorize the demolition of an existing 202-unit apartment complex and subsequent construction of a 544-unit apartment in the Residential V category of the Marina del Rey. This Regional Planning Commission initially heard this case on January 25, 2006 and continued the case to March 1, 2006 to provide additional time for the applicant to submit a more detailed parking management plan and an analysis of tandem parking. The following report summarizes testimony at the March 1, 2006 public hearing, a new proposal by the applicant and the status of other activities associated with this case, with a primary emphasis on affordable housing issues.

SUMMARY OF TESTIMONY: MARCH 1, 2006 PUBLIC HEARING

A duly noticed public hearing was held on March 1, 2006. The public hearing opened with a presentation by staff.

Proponent Testimony

Representatives of the applicant testified in favor of the request. A letter was submitted responding to comments at the hearing. According to the representatives, the project would not provide the fullest that could be met for compact spaces; 68% of tenants drive compact cars. Tandem parking couples

standard with compact parking to the extent that length of spaces were sufficient for most vehicle combinations.

Regarding the sign Variance the representatives noted that many of signs in Marina are larger than what was being proposed. Signs and ornamentation are sculptural in nature.

Another representative noted that the project provides more housing while remaining in scale with surrounding development. The project applicant reduced size of project from maximum permitted in LCP, 150 feet in height less than would be allowed in the LCP; the project features an abundance of open space; shade and shadow diagrams indicate no significant shadows to the west.

The applicant and his representatives also responded to Commission inquiries relating to the parking management plan, availability of parking in the vicinity of the site, and clarification of architectural features. The Commission also requested further clarification regarding the functionality of architectural features.

Finally, the Director of Beaches and Harbors responded to issues regarding the availability of parking. According to the Director there is an abundance of public parking, though the parking lots in the Marina can reach capacity during special events. Under normal circumstances, parking is underutilized. He also noted that parking is replaced on a one-to-one basis.

Opposition Testimony

Testimony is summarized below by Issue:

Affordable Housing

The Legal Aid Foundation submitted a revised version of a prior letter. The letter included an addendum with the economic analysis of project rents and operating costs. According to the testifier, the applicant's analysis understated rent and overstated operating costs; with the full inclusionary package, the project can realize a return on cost of 8.1%. The testifier also noted that more financial data was needed; there was a requirement for building replacement units, and the applicant must survey the income of tenants already relocated. The testifier requested that no approval be granted until these issues were resolved.

An attorney representing People Organized for West Side Renewal (POWER) further testified that measures used by the developer and County were too simplistic. The analysis of the applicant did not take into account time value of money nor does it acknowledge real estate asset value. The applicant needed to consider annual Internal Rate of Return. More information was needed to analyze development costs.

Parking

One testifier contended that parking lots are not accessible to people who need them, especially for the elderly. Another testifier noted a shortage of on-street parking. The parking plan as proposed by the applicant was not viable with too many tandem and compact parking spaces. There was a request for a new parking plan.

Environmental Issues

Testifiers comprised of local residents maintained that the DEIR was not properly prepared. The testifiers expressed concern regarding traffic safety and visual obstructions along Via Dulce, increased traffic; how earth will be transported and associated air quality impacts. Other issues noted were the adequacy of sewage disposal facilities, methane gas and the mitigation of oil wells.

An attorney representing adjacent homeowners noted the following: The project is not consistent with development or traffic capacity specified in the Marina del Rey Local Coastal Program; the analysis of wind and seismic impacts were inadequate and a phase of required road Improvements have not occurred. The testifier further noted that the County is not obtaining maximum revenue from land value.

Proponent Rebuttal

In rebuttal, the applicant's representative noted that the applicant will review information by housing advocates; impacts on cumulative growth were addressed in the DEIR; trip fees were incorporated into the mitigation measures Trip distribution were reviewed and approved by County staff; roadways are lightly traveled and were analyzed for safety issues; air quality standards will meet those of the region, with carbon monoxide below State and Federal standards; construction practices correspond to county codes; a cumulative sewer capacity analysis was provided in the DEIR; the City and County agree that sewer capacity is adequate; an analysis of methane gas indicated no detectable amounts and the development proposed for the project was well below the cap specified in the Marina del Rey LCP.

The Regional Planning Commission continued the Public Hearing to April 19 to allow further testimony on affordable housing and other issues.

BOARD OF SUPERVISORS MOTION: REVIEW OF AFFORDABLE HOUSING IN THE MARINA

On April 4, 2006 the Board of Supervisors instructed the Chief Administrative Officer to form and lead a task force comprised of the Department of Regional Planning, Community Development Commission and County Counsel, working in conjunction with the Department to Beaches and Harbors. The purpose of this task force is to review the County's current affordable housing policy for Marina del Rey and recommend revisions necessary to ensure consistency with the Mello Act. The Board also directed the task force to report back within 60 days with a revised affordable housing policy for review and further recommendations.

The Director of Beaches and Harbors was also instructed to discuss onsite low-income housing opportunities with the lessee of the project and bring back to the Board within 30 days an amended leasehold agreement, as necessary to ensure the project's consistency with the Mello Act.

Task Force Meetings

Two task force meetings have been held:

March 13, 2006

The first meeting was held prior to the Board of Supervisor's motion, to open discussions regarding affordable housing strategies in the Marina. Representatives of the Beaches and Harbors, the Chief Administrative Officer, Regional Planning and Los Angeles Community Development Commission attended.

April 10, 2006

The second meeting was held on April 10, with a discussion on revisions to the County policy relating of the Mello Act. A representative of the consultant, Keyser Marston Associates, presented findings of a survey regarding the programs of coastal cities for Mello Act compliance. The methodology of calculating replacement units and survey of income were discussed. Members of the task force also noted that progress had been made towards achieving the Board's request. A subsequent task force meeting is being scheduled at the time of this report.

PUBLIC COMMENT

Del Rey Shores

The applicant submitted a letter dated April 10, 2006, requesting to withdraw their application for payment of an in-lieu fee. The applicant revised the request to include 35 moderate-income affordable "replacement units" and 26 very low-income inclusionary units on-site.

The applicant also presented methodology for evaluating residents and qualifications for replacement units in accordance with the Mello Act. According to the applicant, the methodology of the analysis reflected evaluation techniques used by the City of Los Angeles and San Diego. The study concluded that 32 units were eligible as moderate income replacement units

Citing that the return on cost is significantly lower than the minimum threshold of 10% return on cost, the applicant also petitioned for significant economic concessions. Some concessions included reduction in lease extension fees and county ground rent. (See attached)

Additional commentary has been provided by the applicant's representative related to environmental issues raised at the March 1, 2006 Public Hearing. See subsequent section, "Applicant Response to Environmental Comments."

Western Center on Law and Poverty

In a letter dated April 3, 2006, the Western Center on Law and Poverty (WCLP) writing on behalf of POWER submitted a letter to the Board of Supervisors regarding the County Marina del Rey affordable housing Policy and policy analysis. According to the WCLP, the County policy does not meet Mello Act requirements for replacement affordable units that are converted or demolished in the Coastal Zone. There are no provisions to ensure that developers will build replacement units; the county's policy did not include a determination of whether persons of low or moderate income resided in existing development.

The WCLP also noted that the County policy allowed developers to pay in-lieu fees when it was feasible to provide affordable units on or off-site. The policy did not require an analysis to determine if off-site provision was feasible or the spending the in-lieu fee within the coastal zone or within three miles of the coastal zone. In addition, in-lieu fees are set a rate that foes not meet the Mello Act's requirement to create net, new units. According to the WCLP, the fee schedule used by the County is set too low.

The WCLP also critiqued the County's methodology for determining Mello Act compliance and stressed that Internal Rate of Return (IRR) would be a more appropriate method of measuring returns and choosing thresholds that the Net

Operating Income/Total Development Cost ratio used by the County. The use of a threshold of a reduction of 53% or more in income as a determination of infeasibility has no scientific evidence. Presumptions that a developer can not take advantage of a density bonus are not appropriate; engineering reports must be provided.

Finally, the letter cited instances of discrimination including the reserve of affordable units for seniors only. Dwelling units should be set aside for persons and families of low or moderate income.

Keyser Marston Memorandum

Keyser Marston Associates held on retainer by the Department of Beaches and Harbors, surveyed local jurisdictions for compliance with the Mello Act. The findings were presented in a memorandum dated April 7, 2006. The survey considered three issues.

1. How are local jurisdictions dealing with the conversion or demolition of existing residential dwelling units occupied by persons of low or moderate income units within the coastal zone?

2. What methodology is used to define whether a tenant is a "low or moderate income household?

3. What evaluation methodology is used to determine whether it is infeasible to provide replacement housing?

The report presented the responses and programs of various jurisdictions. A copy of the memorandum is attached.

PUBLIC AGENCY COMMENT

Los Angeles County Community Development Commission

In correspondence sent April 13, 2006, the Los Angeles County Community Development Commission (CDC) commented on the Del Rey shores letter. The CDC reviewed income standards and the methodology used by the applicant to estimate affordable replacement units. A copy of the April 13, 2006 comments are attached.

APPLICANT RESPONSE TO ENVIRONMENTAL COMMENTS

The applicant's representative has submitted two letters, each dated April 12, 2006, responding to environmental issues raised at the previous public hearings.

Each addresses specific comments of Roger Van Wert (representing a nearby lessee) and Richard Fine (representing homeowners of the adjacent condominium project).

The letter responding to Roger Van Wert's comments noted that cumulative impacts were addressed and the project is required to provide adequate capacity and pay fees to connect to the sewer system; the City of Los Angeles was also consulted in the environmental review process the applicant has submitted a fire safety plan reviewed by the Los Angeles County Fire Department; the project will not result in any significant grading impacts as most of the parking structure is above grade; no additional mitigation measures are warranted, and the DEiR does not need to be re-circulated.

The second letter, addressing comments of Richard Fine, stresses that the project is consistent with the cap specified in the LCP; the DEIR fully analyzes cumulative wind impacts; the DIER considered site specific and soils issues; the total number of trips generated by the project are below the threshold requiring implementation of road improvements; project specific traffic mitigation measures and fees will also address traffic impacts; the removal of asbestos will be undertaken by a licensed contractor, and the applicant will pay for any necessary water and sewer service improvements.

Both letters are attached to this report.

Fire Safety Plan

The applicant submitted a Fire Safety plan to County staff on April 11, 2006. According to the applicant, this plan was reviewed by the County Fire Department and meets their requirements.

PUBLIC COMMENT

Subsequent to the March 1, 2006 public hearing, staff received three letters in opposition to the request from nearby residents. The letters expressed concern regarding the analysis of shade and shadow impacts, density, height and visual impacts. Correspondence is attached to this report.

EVALUATION

The applicant has requested to withdraw the in-lieu request and provide affordable on-site housing. While staff is of the opinion that the applicant is making efforts to respond to affordable housing concerns consistent with the Mello Act (starting at PC 65590), questions have been raised regarding the survey and calculation techniques. The Board of Supervisors has also ordered

the formation of a task force to report to the Board with a revised affordable housing policy for review and further recommendations for compliance with the Mello Act. Task force efforts are in full progress at the time of this report.

Should the Commission express its intent to approve the project, staff anticipates revisions to the project conditions to accommodate the final development proposal; these revisions would also address affordable housing and other concerns expressed in this process as presented. In this situation, staff requests that the Commission provide direction regarding the final stage of the approval process.

RECOMMENDATION

Staff recommends that the Commission:

- Hear further testimony related to affordable housing and other issues;
- Consider whether materials and responses provided by the applicant sufficiently address potential environmental impacts, affordable housing requirements and community concerns.
- Consider whether this matter warrants additional time for you, staff and the public to review and consider the applicant's proposal.

SUGGESTED MOTIONS

If the Commission determines more information is necessary:

IN ORDER TO PROVIDE ADDITIONAL TIME TO CONSIDER ISSUES PRESENTED AT THIS PUBLIC HEARING, I MOVE THAT THE REGIONAL PLANNING COMMISSION CONTINUE THE PUBLIC HEARING FOR PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 TO May 17, 2006, TO BE HELD AT 9:00 A.M. IN THE REGIONAL PLANNING COMMISSION HEARING ROOM IN DOWNTOWN LOS ANGELES.

If the Commission finds that the Burden of Proof is met:

I MOVE THAT THE REGIONAL COMMISSION CLOSE THE PUBLIC HEARING AND EXPRESS ITS INTENT TO APPROVE PROJECT NUMBER R2005-00234-(4), COASTAL DEVELOPMENT PERMIT NO. 200500002-(4), PARKING PERMIT NO. 200500004 AND VARIANCE NO. 200500004 AND FOR STAFF TO PREPARE FINDINGS AND CONDITIONS AND THE FINAL ENVIRONMENTAL DOCUMENT.

If you have any further questions, feel free to contact me at (213) 974-6435.or by e-mail at rfricano@planning.co.la.ca.us. Department office hours are Monday through Thursday, from 7:00 a.m. to 6:00 p.m. The Department is closed on Friday.

RJF

4-13-06

Attachments:

The Mello Act (Section 65590)
Marina del Rey Affordable Housing Policy and Analysis
Board of Supervisors motion, April 4, 2006
Del Rey Shore's letter of April 10, 2006
Community Development Commission Comments: April 13, 2006
Western Center on Law and Poverty letter, April 3, 2006
Keyser Marston memorandum of April 7, 2006 to Stan Wisniewski
Public Comment

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 65590-65590.1

65590. (a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling

units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and (ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health

and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the "feasibility" of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) As used in this section:

(1) "Conversion" means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residental hotel to a nonresidential use.

(2) "Demolition" means the demolition of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division 13 (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.

(3) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government's jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies. Any revision of a housing element pursuant to Section 65588 shall, however, take into account any low- or moderate-income housing which has been provided or required

pursuant to this section.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) No provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

(k) This section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section.

65590.1. Any local government which receives an application as provided in Section 30600.1 of the Public Resources Code to apply the requirements of Section 65590 to a proposed development shall apply these requirements within 90 days from the date on which it has received that application and accepted it as complete. In the event that the local government has granted final discretionary approval to the proposed development, or has determined that no such approval was required, prior to receiving the application, it shall, nonetheless, apply the requirements and is hereby authorized to conduct proceedings as may be necessary or convenient for the sole purpose of doing so.

August 6, 2002

Affordablefinal61102vfinal.doc

Marina del Rey Affordable Housing Policy and Policy Analysis

Mello Act Affordable Housing Policy – Marina del Rey

Policy:

For all new housing development projects constructed in County-owned Marina del Rey, 10% of the newly constructed units, consisting of a mix of all unit sizes contained in the project, shall be reserved for low income households for a term of 30 years.

If it is determined by the Regional Planning Commission after consideration of a joint recommendation by the Department of Regional Planning, the Community Development Commission and the Department of Beaches and Harbors, that providing the specified 10% low-income housing units on-site renders a new project economically or otherwise infeasible, then payment of an in-lieu fee in the amount of $6.41 per square foot of the new development, plus administrative and compliance inspection fees, shall be utilized as a means of providing affordable housing elsewhere in unincorporated areas of the coastal zone or within three miles thereof, and if infeasible within this target area, then elsewhere within unincorporated County territory. The in-lieu fee amount will be adjusted annually in accord with changes in the year-end value of the Consumer Price Index published by the U.S. bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Area.

Determining feasibility of on-site affordable housing for a project must be undertaken on a case-by-case basis. Initially, provision of affordable housing on-site must be explored. If this initially appears infeasible, the potential use of density bonuses and other incentives and the potential for economic aid, such as tax credits and/or below market bond financing or grants, should also be explored as a means of making on-site affordable housing feasible. The availability of in-lieu fees as a substitute for on-site construction is limited solely to projects in which it is demonstrated that on-site construction of the required affordable units is infeasible.

Executive Summary:

The material that follows summarizes the current state of California law as it pertains to affordable housing in the coastal areas of the state. It then provides a policy for the application of those requirements to Marina del Rey.

In general, state law as embodied in the Mello Act (Act)[1] requires, in pertinent part, that affordable housing be provided either when existing affordable housing in the coastal

[1] California Government Code Sections 65590 and 65590.1

zone is converted or demolished or when new (additional) housing is constructed. The manner of providing such affordable housing for new housing developments within County-owned Marina del Rey, whether by on-site inclusion of affordable units, off-site construction of affordable units elsewhere in the coastal zone of the County or within 3 miles thereof, or by providing in-lieu fees which will allow for the construction of affordable units in the same geographical areas through governmental agencies, provides the focus of this policy analysis.

Our analysis of proposed Marina projects has concluded that it is likely that most new Marina coastal zone apartment projects may well prove to be economically infeasible if required to provide even a minimum number of on-site affordable units. This is due in large part to the very high land and construction costs prevalent in the Marina, coupled with the great disparity between the maximum amount allowed to be charged as rent for required affordable units vs. the amount that can be charged as market rate rent.

This policy provides that, in order to fulfill affordable housing requirements for new Marina housing developments on a consistent basis: A) a requirement be imposed that 10% of all residential units constructed in Marina projects, spread among all unit types available in the project, be designated low-income units for a term of 30 years, where feasible; B) in cases where a proposed project consists of both newly constructed units and pre-existing units to be renovated in accord with a Board-approved parcel renovation/lease extension plan, required on-site affordable units may at the discretion of the Regional Planning Commission be located in pre-existing on-site units fully renovated in accord with such approved plan; and, C) a three-step approach for managing affordable housing requirements in Marina del Rey be utilized. These steps are as follows:

1. An analysis on a case-by-case basis of whether the imposition of on-site 10% low-income housing, consisting of a mix of all project unit types, is "feasible", in accordance with the requirements of the Act. This analysis will consider the use of a density bonus, low interest bond financing, tax credits and other mitigation measures that may make on-site affordable housing economically feasible;

2. If on-site affordable housing is demonstrated to be economically infeasible for the developer, analyze and determine whether it is economically feasible for the County, in its role as landowner, to make sufficient economic concessions to accommodate the required affordable housing on-site; and,

3. If on-site affordable housing is determined to be infeasible for both developer and County, use developer in-lieu fees in the amount of $6.41 per net rentable square foot of development equaling approximately $6884[2] for each unit built, as a method of providing the same number of affordable housing units off-site when

[2] See Allan D. Kotin & Associates memorandum dated December 4, 2001, titled Proposed Mello Act In-Lieu Fee for Marina del Rey for a description of the methodology used to derive a range estimate of supportable fees which includes the proposed fee.

mitigation is either unavailable or undesirable or is insufficient to restore on-site feasibility. This fee will be periodically adjusted for inflation.

In addition, the Community Development Commission will levy an annual fee of $125.00 (adjusted annually in accord with changes in the year-end value of the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Area) per affordable unit to defray costs of ongoing compliance inspection and reporting regarding any on-site or off-site affordable units constructed.

All development projects in Marina del Rey are required to obtain a coastal development permit from the Regional Planning Commission (or, if appealed, from the Board of Supervisors or the California Coastal Commission). The determination of whether affordable housing can feasibly be provided on-site shall be made through a report and finding provided to the Regional Planning Commission (RPC) by the Department of Regional Planning (DRP), the Community Development Commission (CDC) and the Department of Beaches and Harbors (DBH).

Lessees that have already received coastal development permit approval for Marina housing developments without consideration of the in-lieu fee alternative may reapply if they are able to demonstrate on-site infeasibility.

The in-lieu fee is to be payable to the CDC and will be utilized by CDC to provide affordable housing in the following areas of the County in which suitable land, feasible to develop for such residential uses, is determined to be available in the order of priority shown below:

1. In unincorporated areas of the coastal zone or within 3 miles thereof, if suitable land is available; or

2. In any other unincorporated area of the County if development of the units in the coastal zone or within 3 miles thereof is infeasible.

Background – Legal Requirement:

The Act calls for the provision of affordable housing, where feasible, in new housing development projects constructed within the coastal zone. Government Code Section 65590(d) mandates, in relevant part, as follows:

> "New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income...Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof."

This requirement is echoed in the Marina del Rey Land Use Plan (LUP). The RPC will require compliance with Government Code Section 65590 and the LUP as a condition of approval of a coastal development permit for a residential project in the Marina. To comply with the Mello Act, a developer *must* provide low-income or moderate income housing units *on-site* in a newly constructed housing development *if* it is feasible to do so. However, the law does not contain a specific requirement as to the percentage of low- or moderate-income units that must be constructed. Government Code Section 65590(g)(3) provides: "'Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technical factors."

Recommended Uniform Affordable Housing Requirement:

In order to provide consistent treatment for all Marina developments and, perhaps as importantly, to provide certainty in the planning and analysis of potential housing developments in the Marina, a single standard for the amount and unit mix of required affordable housing should be employed.

Although significant individual variation exists, required affordable housing percentage requirements in other California coastal areas generally range from 10 to 20% and include a variety of required ranges of "affordability". The definitions of household income levels categorizing eligibility and allowable rental rates for affordable units are contained in California Health and Safety Code Section 50093. These categories ("very-low income", "low-income" and "moderate-income") are based on a percentage of area-wide median income and household size. In general, other California jurisdictions have required a lower percentage of affordable units for projects that restrict eligibility to the lower income categories ("very-low income" or "low-income") and a somewhat higher percentage of affordable units when a project's eligibility requirements are targeted to "moderate-income" tenancy.

Two recent Marina projects have been approved by the RPC with a 10% low-income senior requirement and a 15% low-income senior requirement, respectively. The latter project was allowed to fulfill its requirement with the percentage applied only to the 120 to-be-constructed units, without regard to the 846 existing apartments to be retained and renovated, and including its required affordable units within the existing on-site apartment buildings for which a somewhat lower market rent is charged. A third Marina project was able to fulfill its affordability requirement through use of a "density bonus" (see "Examination of Available Mitigation Measures" below), thus effectively mitigating the economic effects of required affordable housing.

In order to provide affordable housing to a broad spectrum of potential users and in recognition of the intent of the Act, it is recommended that affordable units in all unit types proposed be made available in a given project (e.g., one, two and, if otherwise offered as part of the project, bachelor and three-bedroom units). It is further recommended that County policy require that a 10% requirement be computed against *all*

new units constructed, whether or not they replace existing units[3], and that the threshold of affordability be designated as low-income" as determined by the California Health and Safety Code[4], utilizing a standard of 60% of area median income as the threshold for eligibility. In cases where a proposed project consists of both newly constructed units and pre-existing units to be renovated in accord with a Board-approved parcel renovation/lease extension plan, it is recommended that required on-site affordable units may, at the discretion of the Regional Planning Commission, be designated in pre-existing units fully renovated in accord with such plan.

In comparison to a 15% moderate-income requirement (a higher affordable housing percentage reflecting the less stringent income and rent reductions required of a "moderate-income" project), the proposed 10% low-income requirement has a less severe economic impact on a project, thus making it more likely that projects will proceed.[5] This result will provide both new market rate housing and new affordable housing that otherwise might not be built, resulting in new affordable housing for significant population groups needing housing.

A consistent requirement (i.e., 10% low-income applied to all new units) allows potential developers to design and plan for known factors from the outset of project conceptualization, rather than cause disruptive project reworking during the approval process, further encouraging the approval and actual construction of new units. The proposed standard also, by broad inclusion of family as well as individual users and by its extension to low-income applicants, more effectively implements the underlying purposes of the Act to provide such affordable housing as can feasibly be constructed in or near the coastal zone.

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[3] Because of the requirement that the 10% be applied to <u>all</u> new units to be constructed as part of a proposed project (rather than only to the incremental increase on a project), it will provide additional significant increases in affordable housing availability. For example, one recently submitted Marina project proposes the replacement of 224 existing units with 474 new units. The proposed policy would result in a requirement that 47 low-income units be provided (10% x 474) rather than 25 (474 minus 224 existing = 250 x 10% = 25). In addition, the units must be provided in proportion to all unit types proposed for the project. Thus, one, two and three-bedroom units will be made available as low-income housing, extending the benefits of affordable housing to families as well as to individuals and the senior segment of the population.

[4] "Low-income" is generally referenced as families earning less than 80% of the median income for the Los Angeles-Long Beach Metropolitan statistical area, published by the U.S. Department of Housing and Urban Development. The proposed policy sets this threshold at 60% of such median income, thus allowing in-lieu funds to be utilized in projects qualifying for tax exempt bond financing and other state and federal programs, most of which require that tenant eligibility be set at the 60% of median income level. And resulting in setting lower allowable unit rents, thus including a broader user group with demonstrated need for more affordable housing.

[5] As identified on Exhibit 1, using an example of a proposed Marina project of 474 units, the effect of requiring a 15% moderate-income requirement to all unit types results in a greater loss of project income than a corresponding requirement of 10% low-income units, due in large measure to the greater number of units involved and the relatively small disparity in rent between low-income rent caps and moderate-income rent caps.

Step 1. Determine Whether Developer Provided On-Site Affordable Housing is Feasible:

The initial, or threshold, question regarding compliance with the Act becomes a determination of whether providing affordable housing on-site is "feasible". While the Act recognizes four elements of potential infeasibility, the following discussion focuses principally on economic feasibility. While certain elements of the other three indices of "infeasibility" (environmental, social and technical) may arguably be present in individual projects, these factors are relatively difficult to define and/or categorize as they relate to factors either extraneous to the project itself (e.g., social infeasibility) or may become intertwined with economic factors (i.e., the *environmental* impact of violating height or view corridor guidelines in order to allow a density bonus, etc.).

An important related matter is whether "in-lieu" fees may be contemplated in connection with new projects. The Act specifically contemplates in-lieu fees in instances of the *replacement* of existing affordable units removed to make way for a new project. While the Act does not discuss the use of in-lieu fees as a means of providing affordable units as part of new residential projects, it is likely that in-lieu fees used to fund affordable units located in the County within the coastal zone or in close proximity to the coastal zone would meet the developer's Mello Act obligations to provide off-site affordable housing when on-site affordable units are infeasible.

How Developer Feasibility is Measured:

As one recent study has aptly pointed out, "Property owners as well as developers have varying degrees of experience, resources, ability to raise capital, skills and tolerances for navigating local land use approval processes and degrees of motivation to seek alternative use of their properties."[6] As the cited study further points out, it is therefore difficult to provide a precise threshold for feasibility that will apply in every case.

Nevertheless, there are minimum acceptable financial returns ("thresholds") that developers require in order to commit resources to a proposed project. If a proposed project does not meet these thresholds, the project may not be finanecable and/or the developer may choose to invest those resources on other available projects or investments that do meet these thresholds. Today's real estate and financing communities look to various sources for establishing these return thresholds, including the many industry publications that provide both formal periodic surveys and ongoing information as to how investment decisions are being made by all classes of principals for all property types[7]. These thresholds establish a point at which a reasonably well-informed and experienced developer with a typical multi-family housing project would decide whether or not to

[6] Hamilton, Rabinovitz & Alschuler, Inc., Interim Fees and Other Policy Considerations for Administration of the Mello Act in the City of Los Angeles Coastal Zone (January 3, 2001).

[7] The key national publication providing quarterly surveys is the "Korpacz Real Estate Investor Survey" published by Price Waterhouse Coopers. Other entities that include formal and ongoing collected investment data in their annual reports, market surveys and various other on-line publications include Ernst & Young, Jones Lang LaSalle ("Investment Strategy Annual"), Grubb & Ellis ("National Real Estate Forecast"), and CB Richard Ellis ("Market Index Briefs").

pursue a project. When the expense associated with any affordable housing project causes the return to fall below these thresholds, this can be used as a reasonable indicator that the requirement causes an otherwise feasible project to become infeasible.[8]

It is important that the standard selected not depend on individual developer financial circumstances, and hence borrowing capacity, because the use of analyses based on these factors interjects a large number of extraneous factors into the analyses that are not germane to establishing a general standard for determining whether a project itself is economically feasible. This proposed measurement is referred to as an "unleveraged" rate of return, because its calculation does not include the return on borrowed funds and/or the cash and other equity invested in a project.

The standard most commonly used as a threshold for evaluating development projects is "Return-on-Cost" (return on total development cost for apartment projects). In today's market (based on apartment investment thresholds cited in the most recent data published as cited in footnote 7 above) a developer, lender or equity participant in a high-end apartment project developed under a ground lease such as those in the Marina must be reasonably certain of achieving a 10 to 10.5%+ return on the amount spent to develop a project (i.e., the purchase of land and all other development costs) by the time the project reaches stabilized occupancy (i.e., 95% occupied) before committing to undertake the project.

While this is a general benchmark and one to which there are undoubtedly exceptions, it is nevertheless a standard both common in the real estate industry and utilized by lenders and potential equity investors, as well as developers, in making an initial assessment of whether a project is worth pursuing. It is calculated as net operating income (i.e., gross rental and other income, less an allowance for vacancy and all operating expenses) divided by the total development cost (i.e., cost of land and construction costs). The requirement that affordable housing be included clearly impacts the project income by lowering the gross rental income below what would otherwise be received as market rent. If such impact causes the Return-on-Cost to fall below 10%, holding all else constant, the imposition of affordable housing has, by definition, caused the project to become economically infeasible for the developer.

Examination of Available Mitigation Measures:

While the imposition of an affordable housing requirement may otherwise cause a project's Return-on-Cost to fall below the threshold of economic feasibility, there are potential mitigating factors that may be incorporated into an individual project to restore it to an economically feasible status. The two most important of these are: a) the use of a

[8] The **extent** of the economic impact of affordable housing depends principally on three factors; the **percentage** of affordable units required (e.g., 10 or 15% of the project units); the **type** of affordable housing (e.g., very-low, low- or moderate-income), with the corresponding caps on monthly rental rates for each unit type; and, the **size** of the units (e.g., limited to smaller units or a required mix of bachelor, one/two/three-bedroom required). The impact of affordable housing rent limits is disproportionately higher in the case of larger (two- and three bedroom) units, due to the greater disparity between the allowable maximum rent chargeable affordable rent and market rent for such units.

"density bonus", and b) below market bond financing and/or tax credits provided to developers of affordable housing. While useful in many affordable housing venues, these methods are likely to have limited utility or availability in the Marina. The methods, briefly, are as follows:

1. Density Bonus:

The law requires local government to provide a developer with incentives for the production of lower income housing units within a development if the developer meets certain statutory requirements. These incentives are set forth in Section 65915 of the Government Code and include, principally, a "density bonus", allowing an increase in the number of units otherwise allowed as the maximum density in a given area. This increase in density has the effect of providing both the required affordable units and additional market rate units on the project site. The effect of utilization of a density bonus often is, then, to restore the developer's Return-on-Cost to at least threshold levels by providing sufficient additional market rate units to mitigate the cost of providing affordable housing.

While the potential use of a density bonus should be reviewed in each case for applicability and has been utilized in one case in the Marina, use of the density bonus may have limited further application in the Marina due to a variety of environmental, traffic, construction cost and other issues affecting individual planned projects. For instance, due to the other relatively strict Marina building requirements (e.g., height limitations to prevent boating "wind shadow" problems, required view corridors, strict traffic mitigation requirements), it is expected that increasing building density will often not be possible. In addition, increased density most often requires that structures be taller. Increasing the height of Marina structures to accommodate additional units radically affects construction costs by mandating a wholly different type of construction (steel framing, etc.) in order to meet fire and safety codes, from which no structures may be exempted. Marina construction is further complicated by the restrictions on the extent of below ground level structures for parking, etc., due to the Marina water table and the proximity of most Marina sites to the seawall. The result of attempts to build more densely on most Marina parcels, therefore, is that any effective gain in revenue from additional market rate units is likely more than offset by construction cost increases that often may require an additional 50 to 60% over lower-rise construction.

2. Financial Mitigation – Bond Financing & Tax Credits:

There are a large number of specially targeted programs giving financial assistance to affordable housing projects in, for example, designated redevelopment areas, for public agency developed housing and/or for rehabilitation and special tenant programs (e.g., for teachers, etc.). We initially developed a list of some 36 potential programs and sources and, thereafter, investigated the availability of those economic resources to Marina multifamily residential development through our own research as well as consultation with other state and federal governmental agencies. The two

main sources of possible financial aid for affordable housing for *privately* owned/developed mixed-income development projects (i.e., containing both affordable and market rate units in the same development) are state tax-exempt bond funding and federal and state tax credits.

However, due to threshold eligibility criteria and competitive parameters, there are few realistic sources of below market financing or other assistance likely to be available for Marina developments. The primary reason this funding will not be available is that projects seeking public financing are prioritized according to a point system that will rank Marina projects lower because:

(1) Substantial additional point credit is awarded to developments with very high percentages of affordable housing and, in order to compete effectively, a substantial amount of each development project would need to be devoted to affordable housing as opposed to the 10% affordable housing likely to be included in Marina development projects; and,

(2) Other important point bonus criteria, such as project location in targeted development areas, inclusion of a large percentage of 3-bedroom or larger units, among others, are not available in Marina projects.

As to state tax-exempt bond funding and federal and state tax credits, both programs are subject to allocation of a finite funding amount and both are administered by State of California appointed commissions, under guidelines prescribed by federal and state law. Both programs allocate available resources on a competitive basis.

A more detailed discussion of these programs and their potential availability is contained in a December 14, 2000 research memorandum prepared by DBH and previously furnished to the Board entitled "Mitigation of Affordable Housing Financial Impact – Funding Sources".

Step 2. Feasibility of County Accommodation of On-Site Affordable Housing - County as Landowner:

To understand the economic impact of affordable housing on County income, it is important to recall that DBH negotiates a percentage of rent to be collected from a lessee in Marina del Rey as the County's fair market share of gross rent, typically 10.5% of gross rentals for apartments. What is left for a lessee after ground rent must be enough to provide a market return sufficient to justify development of the project (i.e., sufficient Return–on- Cost). In all markets affordable housing units produce a significantly lower monthly rent than market-rate units, with an even greater disparity in luxury apartment settings such as the Marina.

Because the County is the owner of the land in the Marina and, therefore, in control of a key element of development cost (i.e., land cost as represented by ground rent), the County could, theoretically, reduce its share of the rent to extremely low levels to support a market return needed to attract a developer/lessee. As this is a possibility, the extent to

which the County could reduce its rent should be taken into consideration in determining whether providing affordable units on-site is economically infeasible. In this regard, County Counsel has advised that the County is not exempt from the affordable housing requirements of the Act or its economic ramifications and that a mere reduction in the amount of the County's rental income stream is not likely to be found by a court to constitute "economic infeasibility" unless the reduction is substantial. County Counsel has further advised that the law provides no specific guidelines as to the amount of income reduction that would have to be demonstrated by the County before a declaration of "economic infeasibility" could be upheld if judicially challenged, but that if a very high percentage of County income (ground rent) would have to be foregone in order to allow development to advance, it becomes more likely that a finding of economic infeasibility is supportable, even in cases where the County is landowner.

In order to determine and demonstrate the extent of County income reduction that would be incurred under circumstances in which developer economic infeasibility is found in accordance with the criteria set forth earlier in this paper, DBH requested an analysis by its economic consultant, Allan D. Kotin & Associates. The analysis reviewed a number of recently proposed and/or approved Marina del Rey projects and presumed a requirement that 10% on-site low-income housing distributed among all unit types was mandated. The conclusion reached by Allan D. Kotin & Associates is that to make such housing projects economically feasible, the County's rent would have to be reduced to levels below that for other alternative uses (hotel, commercial development), an economically indefensible level of reduction, as a result of the imposition of the affordable housing requirement.[9]

The County leases its Marina property on the basis of a percentage of revenue generated. Accordingly, a good measure of the impact that on-site low-income housing has on County revenue is the ground rent per square foot of land produced by the available alternative land uses. In constructing its analysis, Allan D. Kotin& Associates drew upon the proforma projections for currently proposed new development or redevelopment throughout the Marina. In this context, the analysis considered the land uses as follows:

1. Development of residential rental housing with no low income requirement;

2. Development of residential rental housing with a requirement for 10% low-income on-site units with the County absorbing sufficient loss in the developer's operating income to maintain developer economic feasibility;

3. Hotel development; and

4. Commercial (retail) development.

The analysis found the negative impact of an on-site 10% low-income housing requirement on County revenue to be dramatic. As detailed in the attached Exhibit 2, apartments go from being the highest value of land use out of the four options at $4.94

[9] See Allan D. Kotin and Associates memorandum dated December 4, 2001, cited supra and Exhibit 2, attached.

per square foot per year, to the lowest value land use at $1.41 per square foot per year once low-income units are introduced. Hotels, which are typically built at fairly high density, represent a high value use at $4.18. Retail commercial, which is typically built at a significantly lower density, generates approximately $2.33 per foot per year. Both alternative uses generate significantly higher County revenue than apartment-developed land with included affordable housing, and County revenue from the typical market rent apartment scenario would diminish by over 70% as a result of the introduction of an on-site 10% low-income requirement.

The lowest illustrated alternative land rent value is $2.33 for retail commercial, representing a decrease of 53% from residential without affordable units. Accordingly, any residential project in which on-site construction of 10% low-income units would require a reduction in County rent of 53% or more to maintain the developer's original target Return-on-Cost should be considered infeasible for the County. Otherwise, the County would be making an economically indefensible decision to allow new apartment development at the cost of an income/revenue loss of such proportions. The County would clearly instead encourage alternative uses, such as the development of either commercial or hotel projects.

It is important to note that in no event is the County obligated to lower its rent or provide other economic mitigation in order to restore developer economic feasibility as a result of this policy.

Step 3 – Use of In-Lieu Fees:

Knowing of RPC's and housing advocacy groups' preferences, it has become increasingly apparent that a mix of all apartment types would be appropriate in order to comply with the expressed intention of the Act and to satisfy the social goals expressed by the various agencies charged with the administration of affordable housing requirements. This policy provides for a Marina del Rey affordable housing requirement that 10% of all units to be constructed must be low-income units, spread across all unit types available in the proposed project, for a term of 30 years. On-site satisfaction of such a requirement is highly likely to render all but the very smallest possible projects (i.e., those having 10 or fewer affordable units) economically infeasible by any reasonable standard.

Analysis of several Marina projects as initially proposed indicates that the imposition of a 10% low-income on-site requirement, spread across all unit types, would require a reduction in County rent of over 70% in order to maintain the threshold return to developers that would enable those projects to occur. If this amount of rent reduction renders a project infeasible for the County, then the affordable housing must be provided if feasible off-site elsewhere in the coastal zone or within three miles thereof. While economic projections and analysis of currently proposed Marina projects indicate that the inclusion of on-site affordable housing would often have the effect of stopping potential residential development in the Marina by making it economically infeasible, the use of a developer-paid in-lieu fee to provide off-site construction can supply the same or greater number of affordable housing units with less economic impact on a proposed

development. This may be particularly so in the Marina due to conditions requiring expensive construction methods and the prevalent high land costs (ground rent) present in the Marina, as detailed earlier in this analysis.

The impact of an upfront in-lieu fee on development costs is both less intrusive and more manageable. The costs associated with funding less expensive off-site construction (versus the very high cost of Marina del Rey construction), as well as much lower off-site land costs and the savings involved in CDC construction of affordable units utilizing available mitigation measures (low interest financing, tax credits, etc.), allow significantly lower costs for furnishing the same or a greater number of affordable units. In addition, the developer can maintain the upside potential of all on-site units and be relieved of the reporting, administrative and other burdens of managing a separate affordable component of a project. Our analysis and the experience of other jurisdictions that have studied and used in-lieu fees to provide affordable housing indicate that the economic burden associated with in-lieu fees provides a much greater likelihood that a project will move forward to construction and affordable units will be added to the housing market.

Establishing and Computing an In-Lieu Fee:

The issue of determination of the amount of an in-lieu fee is a complex one. The key premises underlying its determination are as follows:

1. The per unit in-lieu fee should be based on the per unit "gap" between the total cost of building an affordable project off-site and the total funding sources otherwise available for such off-site development.

2. The total cost should reflect the land cost in the specific area in which the affordable units must be built.

3. The total funding sources should reflect all sources available for low-income housing development, including, but not limited to, conventional financing, low-cost financing, federal subsidies such as tax credits, local incentives such as density bonuses, and other third-party funds.

Many jurisdictions that have considered in-lieu fees have taken the position that the proper measure for a fee is to compute an amount that would produce a similar unit as part of a pure low-income housing project. This is a critical assumption in that such a project is able to take advantage of density bonuses, low interest bond financing, tax credits and the like, which then become available and significantly reduce the "gap".

Our economic consultants reviewed in-lieu fees set by other jurisdictions, as well as the recent draft affordable housing study prepared for the City of Los Angeles for its implementation of the Mello Act. They also reviewed calculations performed by Legacy Partners (prospective lessee of Marina Parcel 10) for its proposed project in the Marina and gathered data from CDC regarding recent average land and construction costs for affordable projects in the County. The methodology and analysis originally provided a

range of between $6.96 and $7.53 per net rentable square foot of residential development. Subsequent analysis and consideration of data regarding the land value component of the fee calculation indicated that a 20% downward adjustment of this value component would be appropriate, given the fact that many of the available comparable projects used in the original calculations were in high land value areas within ½ mile or less from the coast and did not reflect the average land values within the tree-mile coastal target area of the policy. As there is a likelihood that land costs for affordable housing in the target area will be lower due to the identification of sites for affordable housing and that a 20% adjustment is conservative given that land values tend to decline more rapidly than distance from the ocean within the three-mile target area, this land value adjustment, we recommend that the land value adjustment be made. Based, therefore, on our economic consultant's research and analysis and on further consideration of appropriate land values for the fee computation, we recommend that the in-lieu fee be set at $6.41 per net rentable square foot of residential development, which equals approximately $6,884 per proposed unit being constructed.[10] The precise methods of calculation, including the adjustments necessary to derive an appropriate range of in-lieu fee values are separately detailed in the attached analysis (Exhibit 3).

Adjustments to the In-Lieu Fee:

The in-lieu fee has been calculated for the year 2002 and is the result of the combination of three parameters: construction costs, land values, and financing costs, all of which would change in response to forces in the general economy. The in-lieu fee is, therefore, to be adjusted yearly in accord with changes in the year-end value of the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Area.

Administration of In-Lieu Fee:

Administrative costs of the in-lieu fee will be provided by a service contract with CDC or other entity to be funded by future Marina revenue increases from redevelopment activities. One potential method of in-lieu fee administration is for CDC to receive all affordable housing in-lieu fees generated and collected by the County as a result of Marina residential development. Such funds would then be placed into an "Affordable Housing Trust Fund" (Fund) that CDC will administer, in similar fashion to the administration of the Los Angeles County Housing Authority "Industry Funds Program" and other affordable housing programs currently administered by CDC. The goal of the Fund will be to maximize the development of affordable housing through both leveraging the in-lieu fee funds generated by Marina development with other available funds and by emphasizing public/private partnerships.

Following collection of fees, the allocation of funds will be pursued on a competitive basis, using periodic Requests for Proposals (RFPs) or a year-round open RFP, depending on market conditions and demand from developers of affordable housing projects.

[10] See Chief Administrative Officer/Department of Beaches and Harbors memorandum dated August 1, 2002, titled Affordable Housing Policy – Marina del Rey.

Emphasis will be placed on expediting the expenditure of funds so as to comply with the spirit of the Act, which encourages the provision of affordable housing within a reasonable time after approval of residential construction plans.

Off-site affordable housing developments will be financed first in unincorporated areas in the coastal zone or within three miles of the costal zone. In the event it is infeasible, as defined in the Act, to construct the affordable units in the unincorporated areas in the coastal zone or within three miles of the coastal zone, the CDC will then solicit proposals for development in any other unincorporated area of the County until suitable projects are secured. Developments will be focused on providing affordable housing for a cross-section of the neediest populations, including larger families and seniors, and may include opportunities for first-time homebuyers.

Within 90 days of Board adoption of an affordable housing in-lieu fee policy, CDC will develop and submit a detailed distribution and allocation plan. The plan is intended to be similar to the current "City of Industry Affordable Housing Plan" and will form the basis for a proposed "Marina del Rey Affordable Housing Fund Program".

As indicated earlier herein, a fee of $125.00 per off-site and on-site affordable units built, adjusted annually for increases in the CPI, will also be levied by the CDC to defray ongoing compliance inspection and reporting costs.

Conclusion:

As detailed herein the proposed uniform policy for the provision of affordable housing for Marina del Rey would require each new housing project built to set aside 10% of all newly constructed units, consisting of a mix of all unit types, to be made available as low-income affordable housing units for a term of 30 years. In cases where a project consists of both newly constructed units and pre-existing units that are to be renovated in accord with a Board-approved parcel renovation/lease extension plan, required on-site affordable units may at the discretion of the Board be designated in pre-existing units fully renovated in accord with such plan.

Establishing feasibility of on-site affordable housing for a project must still be determined on a case-by-case basis. Initially, provision of affordable housing on-site should be explored. If this proves infeasible, the potential use of density bonuses and other incentives and the potential for economic aid, such as tax credits and/or below market bond financing or grants, should also be explored as a means of making on-site affordable housing feasible.

If the 10% low-income housing requirement renders a new project economically infeasible, then use of an in-lieu fee in the amount of $6.41 per square foot of development, equaling approximately $6,884 per unit should be utilized as a means of providing affordable housing elsewhere in the unincorporated coastal zone or within three miles thereof, and if infeasible within this target area, then elsewhere within unincorporated County territory as the availability of suitable land for such construction allows.

AGN. NO._____

MOTION BY SUPERVISOR DON KNABE

April 4, 2006

The Mello Act (Ca. Gov. Code § 65590 et seq.) is a statewide law that requires that, for new multi-unit residential developments in the California Coastal Zone, affordable inclusionary housing for persons and families with low or moderate incomes be provided where feasible. The Mello Act also requires that affordable replacement units be provided for the number of low or moderate income persons and households that occupy residential apartments in the Coastal Zone when their existing residential units are converted or demolished for new residential development.

Los Angeles County has attempted to meet the requirements of the Mello Act through its Affordable Housing Policy in Marina del Rey. However, the adequacy of the County's policy has come into question, and legitimate issues have been raised as to its consistency with the Mello Act. These issues include, but are not limited to: (1) whether certain new development projects provide for the necessary inclusionary low or moderate income housing, where feasible, as required by the Mello Act, (2) whether a

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sufficient number of affordable replacement units for low or moderate income persons or households have been provided due to new redevelopment in Marina del Rey; and, (3) whether the County's in-lieu fee is sufficient to provide adequate low or moderate income housing off-site when providing such housing on-site is shown to be economically infeasible.

I, THEREFORE, MOVE, that the Board of Supervisors instruct the Chief Administrative Office to form and lead a task force comprised of the Directors of the Departments of Regional Planning, the Community Development Corporation, County Counsel, and working in conjunction with the Director of the Department of Beaches and Harbors, to review the County's current Affordable Housing Policy for Marina del Rey and recommend such revisions as necessary to ensure the County's consistency with the Mello Act.

Further, the Board of Supervisors directs the aforementioned task force to report back to the Board within 60 days with a revised Affordable Housing Policy for review and further recommendations to ensure that the County is in full compliance with the requirements of the Mello Act.

In addition, the Board of Supervisors recognizes that a proposed redevelopment, a residential project on Parcels 100 and 101, is currently in the Coastal Development Permit review process and may be impacted by the County's further review of the County's Affordable Housing Policy. Therefore, I also move that the Board of Supervisors instruct the Director of Beaches and Harbors to discuss onsite low income housing opportunities with the lessee of that project and bring back to the Board within 30 days an amended leasehold agreement, as necessary, to ensure the project's

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consistency with the Mello Act.

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REVISED - 2

COMMUNITY DEVELOPMENT COMMISSION COMMENTS ON
THE PROPOSED DEL REY SHORES

"ON SITE AFFORDABLE HOUSING REPORT"

AFFORDABLE REPLACEMENT UNIT ANALYSIS

The Developer has used income standards recommended and developed by the Community Development Commission. These standards are based on income standards published by HUD, used by the Commission in numerous programs as well as being extrapolated by the Commission to develop standards for household sizes at median income (100%) and moderate income (120%). HUD does not publish standards for households at 100% and 120%.

AFFORDABLE REPLACEMENT UNIT ANALYSIS – Fourth Bullet

To calculate the number of tenants/units eligible for replacement housing requires additional information. All tenant's incomes must be surveyed. We are recommending that the number of replacement units required should be based exclusively on the tenant's incomes throughout the building(s).

INCOME AND RENT LIMITS - 2006

		1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
	30%								
	50%	24,250	27,700	31,200	34,650	37,400	40,200	42,950	45,750
	60%	29,100	33,240	37,440	41,580	44,880	48,240	51,540	54,900
	80%	38,800	44,350	49,900	55,540	59,900	64,300	68,750	73,200
HUD	Median 100%	48,500	55,400	62,400	69,300	74,800	80,400	85,900	91,500
HUD	120% of Median	58,200	66,480	74,880	83,160	89,760	96,480	103,080	109,800
HCD-State Median 100% (1)*		**39,300**	**45,000**	**50,600**	**56,200**	**60,700**	**65,200**	**69,700**	**74,200**
HCD-State 120% of Median (1)*		**47,200**	**53,900**	**60,700**	**67,400**	**72,800**	**78,200**	**83,600**	**89,000**

		Occupancy Factor	0-bedroom	1-bedroom	2-bedroom	3-bedroom	4-bedroom	5-bedroom	6-bedroom
	LOW-HOME (50%)*	1.5	606	649	780	900	1,005	1,108	1,212
	TAX CREDIT (50%)*	1.5	606	649	780	900	1,005	1,108	1,212
	City of Industry (50%)*	1+1	606	693	780	866	935	1,005	1,074
	BOND (50%)**	1+1	606	693	780	866	935	1,005	1,074
	TAX CREDIT (60%)*	1.5	728	779	936	988	1,206	1,331	1,475
	HIGH-HOME*	1.5	769	825	992	1,137	1,249	1,359	1,471
	BOND (60%)	1+1	728	831	936	1,040	1,122	1,206	1,289
	BOND (80%)**	1+1	970	1,109	1,248	1,389	1,498	1,608	1,719
HUD	Median 100%	1+1	1,213	1,385	1,560	1,733	1,870	2,010	2,148
HUD	120% of Median **	1+1	1,455	1,662	1,872	2,079	2,244	2,412	2,577
HCD-State Median 100% (1)*		**1+1**	**983**	**1,125**	**1,265**	**1,405**	**1,518**	**1,630**	**1,743**
HCD-State 120% of Median (1)*		**1+1**	**1,180**	**1,348**	**1,518**	**1,685**	**1,820**	**1,955**	**2,090**

*MUST SUBTRACT UTILITY ALLOWANCE FROM LISTED RENT AMOUNT TO GET ACTUAL RENT AMOUNT TO CHARGE TENANT

**ACTUAL RENT CHARGED TO TENANT - NO UTILITY ALLOWANCE ADJUSTMENT MADE UNLESS PROJECT SPECIFICALLY REQUIRES IT FOR PROJECTS BEFORE 1-1-03

(1)* Income limits and rents for developments with density bonuses. Income limits are to be used when income-qualified buyers are assisted with tax increment funds only

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April 10, 2006

Hon. Pat Modugno, Chairman

County of Los Angeles Regional Planning Commission

320 West Temple Street, 13th Floor (Hall of Records)

Los Angeles, California 90012

Subject: Affordable Housing Report Relating to Case No. R2005-00234-(4):

"The Shores" Project, Marina del Rey Parcels 100 & 101

Honorable Chairman Modugno and Commissioners:

The ownership of Del Rey Shores wishes to withdraw its application for payment of an in-lieu fee in the above referenced case, made pursuant to the County of Los Angeles' Affordable Housing Policy for County-owned Marina del Rey (the "**County Policy**"), and proposes to provide 30 moderate-income affordable "replacement units" and 26 very low-income inclusionary affordable units on-site, consistent with California Government Code Section 65590 et seq. (the "**Mello Act**").

The Mello Act prohibits the demolition of affordable units in the coastal zone "unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income" (Government Code 65590(b)). In order to determine the number of those dwelling units which qualify as replacement units among the 202-unit apartment complex known as Del Rey Shores, the applicant undertook a detailed study of the replacement unit determination process utilized in jurisdictions throughout the state, and carried out a thorough survey of its existing residents.

First, it should be noted that the County Policy does not address the Mello Act's replacement unit determination requirement, and therefore does not provide any guidelines for implementation of this provision of the Act. Moreover, the replacement unit provision of the Mello Act has not been applied to previously-approved "second generation" residential

projects in Marina del Rey, so one cannot look to the County's previous residential development approvals in the Marina for guidance on this issue.

Following the public hearing on January 25, after consideration of the written and oral testimony provided by the Legal Aid Foundation of Los Angeles, its client People Organized for Westside Renewal, and the Western Center on Law and Poverty, and the question-and-answer discussion with the members of the Regional Planning Commission on this issue, the applicant consulted with housing officials in several municipal jurisdictions in the coastal zone throughout California (including the cities of Los Angeles and San Diego), and found that no two jurisdictions implement the Mello Act in the same manner. In particular, various coastal municipalities in California appear not to be consistently enforcing the replacement unit provision of the Mello Act; for those that do, the procedures for the determination of replacement units differ from municipality to municipality.

As part of this research, the applicant reviewed the "Interim Administrative Procedures for Complying with the Mello Act," adopted in May 2000 by the City of Los Angeles as part of the settlement agreement entered into between the City and the Legal Aid Foundation and the Western Center on Law and Poverty, and discussed the procedures at length with the City of Los Angeles Housing Department staff (it should be noted that the City of Los Angeles has yet to adopt permanent procedures for developer compliance with the Mello Act). Housing Department staff observed that, since the adoption of these Interim Administrative Procedures, few, if any, proposals for the demolition and subsequent redevelopment of existing residential projects have been approved—or even applied for—in the coastal zone portion of the City of Los Angeles.

Given the lack of precedent elsewhere in the state, and the silence of the County Policy on this matter, the developer itself carried out a detailed study of the residents of Del Rey Shores, and did so in a manner patterned after the City of Los Angeles' Interim Administrative Procedures and the Mello Act procedures adopted by the City of San Diego.

First, as has been noted in prior testimony by the applicant, the Regional Planning Commission is aware that all building occupants have received a series of notices from the applicant that has described the proposed redevelopment of Del Rey Shores. The first notice was sent to residents of the complex in November 2004. Since that date, all new residents have also signed an Addendum to their lease which recites that management has advised the residents of the prospect of future redevelopment of the property. Moreover, existing and new residents have been made aware since November 2004 that the applicant offers to provide 90-day notice to vacate before termination of residency due to redevelopment and to provide a financial incentive to encourage residents to stay until the last month prior to the date of termination of residency. Thus, rents for some units have been kept artificially low.

The applicant held two evening meetings with residents of Del Rey Shores in January 2005 and January 2006 to communicate the status of the project and to answer any and all questions. Residents have also received official notice of the Regional Planning Commission hearings. To date not one past or present resident of Del Rey Shores has presented written or oral testimony regarding the proposed project. While many tenants have left Del Rey Shores voluntarily since November 2004 for a variety of reasons, **no tenants of Del Rey Shores have been evicted for the purpose of avoiding the requirements of the Mello Act**. Indeed, short-term leases until August 31, 2006, are still being entered into by the applicant with new residents, including one new March 2006 resident whose income level qualifies the apartment as an affordable replacement unit.

AFFORDABLE REPLACEMENT UNIT ANALYSIS

The applicant utilized the County of Los Angeles Community Development Commission's chart of "Income and Rent Limits-2005" as the basis for the evaluation of the resident and/or unit qualification for affordable replacement unit status. As a result, over the past several weeks, the applicant has utilized the following methodology to carry out a survey to determine the number of replacement units at Del Rey Shores:

- The rental application files for all current residents of Del Rey Shores were examined by current property management and a summary of this information was reviewed by the project's economic consultant.

- **Four units were eliminated from consideration as replacement units by virtue of their occupancy by management employees of the applicant.**

- **14 units are vacant.**

- The current Monthly Housing Cost data for each residential unit was examined by property management and by the project's economic consultant. **52 units were eliminated from consideration as replacement units by virtue of the Monthly Housing Cost data**, inasmuch as these units were being rented at prices in excess of $1,572 per month and $1,770 per month, which exceeds the moderate-income rental limit for one- and two-bedroom units, respectively, per both the County's Community Development Commission data and the City of Los Angeles Housing Department standards.

- If the current Monthly Housing Cost data indicated that the existing residential unit is affordable to a very low, low, or moderate income household, then management again reviewed the rental application and current files to assess the reports of actual income included therein for those residential units in order to determine whether the information therein was current and complete.

- At this point, over 90 residents of over 80 units were called by management to collect updated information and to verify current income data. Management explained the purpose of the Mello Act and the income survey, and asked the resident(s) to indicate their individual and household income.

- Based on the management file information and the updated information from follow up calls to residents, management's outside economic consultant determined that **100 of the 202 units are occupied by households whose incomes exceed the threshold for a moderate-income household.** These 100 units were therefore determined not to be replacement units under the Mello Act.

As a result, the applicant determined that residents in 32 units were potentially eligible for consideration as replacement units per the Mello Act, as follows:

- **20 units (16 one-bedroom and four two-bedroom apartments) are occupied by individuals with reported incomes of less than $55,100**, the City of Los Angeles threshold for a one-person household income which qualifies as a moderate-income replacement unit.

- **Five (5) units (1 one-bedroom and four two-bedroom apartments) are occupied by two-person or larger households with combined incomes of less than $62,900, the City of Los Angeles threshold for a two-person household income** which qualifies as a moderate-income replacement unit, or, where appropriate, a total income of less than the $70,800 threshold for a three-person household.

- Seven (7) units (two one-bedroom and five two-bedroom apartments) are occupied by **roommates (or more than one single-member household) in which at least one resident has a reported income of less than $55,100**. The two one-bedroom units each had one roommate above the income threshold and one below; the two individuals below the threshold were counted as a single two-bedroom replacement unit. Similarly, two of the two-bedroom units had one roommate over the threshold and one under; these two individuals were counted as a single two-bedroom replacement unit. There is precedent under State law (Section 33413 of the Health and Safety Code) to provide affordable replacement units having no less than an equal number of bedrooms as those to be demolished which are occupied by persons of low or moderate income. The State law provision is consistent with the intent and purpose of the Mello Act. **The total replacement requirement for roommates was therefore calculated to be five (5) two-bedroom units.**

Following this extensive surveying process, **the applicant has ultimately determined that 30 units are eligible as replacement units pursuant to the Mello Act.** (These 30 replacement units constitute fifteen percent (15%) of the 202 existing apartment units to be demolished at Del Rey Shores pursuant to the applicant's redevelopment proposal.)

It is important to note that six of the existing units are occupied by full-time students whose parents guarantee payment of rent and whose income exceeds the thresholds for replacement unit status. Three of these six units are one-bedroom units and three are two-bedroom units. While the City of Los Angeles interim regulations are silent on this matter, the City of San Diego guidelines specifically exclude units occupied by individuals listed as dependents upon parents' income tax forms as eligible for qualification as an affordable replacement unit. Therefore, the applicant has excluded these units from the replacement unit obligation.

Also, five of the seven replacement units occupied by roommates would not qualify as a replacement unit if the occupants of the apartment were treated as one household. Nonetheless, these units have been included as replacement units.

There are 10 units in which two or more unmarried persons reside as one household or family, including two units with children, where the combined household income is greater than the income threshold established for families, even as high as $185,000. Although the occupants are unmarried, they function as a family and therefore the units do not qualify for affordable replacement housing.

The 30 proposed replacement units include 17 one-bedroom units and 13 two-bedroom units. Please see attached "Appendix A" for a summary of the replacement unit count analysis.

There is ample precedent, including the Interim Administrative Procedures adopted by the City of Los Angeles, for the on-site provision of affordable replacement units at any level of affordability. **Therefore, the applicant proposes that the 17 one-bedroom and 13 two-bedroom replacement units be set aside for persons or families of moderate income.**

The applicant offers to advise current residents of the future availability of moderate-income replacement units in the new development, and to provide current residents with the opportunity to apply to reside at the new project on a "first right of refusal" basis, should the current residents still qualify for affordable housing at that future date.

INCLUSIONARY AFFORDABLE UNIT ANALYSIS

The Mello Act also states that "new housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code." The Mello Act defines feasible as "capable of being accomplished in a successful manner within a

reasonable period of time, taking into account economic, environmental, social, and technical factors." No specific percentage or type of inclusionary affordable unit is cited in the Mello Act.

The County Policy's current requirement that 10% of newly constructed units in Marina del Rey be set aside for low-income persons and households notwithstanding, there is authorization under state law, recently codified through the state legislature's passage of SB 1818 (Hollingsworth), to treat a smaller percentage of "very low-income" units as equivalent to a larger percentage of low-income units. Pursuant to the new rules codified under SB 1818, housing projects which make on-site provision of either five percent (5%) of the number of market-rate units for persons or families with very low-incomes, or ten percent (10%) for persons or families with low-incomes, qualify for a density bonus and affordable housing incentives.

In this case, there are 544 units in the proposed project, 30 of which are affordable replacement units which will be rented at lower than market rental rates (as outlined above). **The applicant believes that it is feasible and consistent with the Mello Act to set aside 26 units (or 5% of the market-rate units) for very low-income residents or families as inclusionary affordable residential units in the proposed project. Furthermore, the applicant proposes that 13 one-bedroom and 13 two-bedroom units be set aside for persons or households with very low-incomes.**

The applicant offers to provide both the replacement units and the very low-income inclusionary units on-site within three years of the commencement of demolition of the current Del Rey Shores apartment complex, as called for in the Mello Act.

The applicant offers that the affordable replacement units and inclusionary affordable residential units will not be segregated from market-rate units, but shall be reasonably dispersed throughout the project's 12 buildings.

The applicant offers to record a covenant with the Los Angeles County recorder which guarantees that the applicable affordability criteria for both replacement and inclusionary units shall be observed for a period of 30 years from the issuance of the Certificate of Occupancy. This 30-year period is consistent with the policies in many jurisdictions, including with the City of Los Angeles Interim Mello Act Administrative Procedures.

Both the applicant (the lessee developer of the project) and the County of Los Angeles (the fee owner of the site) will suffer substantial economic harm in order to comply with the Mello Act. **Under this proposal, the applicant's return on cost is significantly lower than the minimum threshold for 10% developer return-on-cost prescribed in the County Policy**. Because of the proposed project's construction financing loan terms, the applicant cannot accept any lower projection of net revenues before debt service and still proceed with the proposed project.

It must be stressed that the set-aside of 30 replacement units and 26 very low-income inclusionary affordable units, as outlined in this proposal, can only be achieved with significant economic concessions from the County of Los Angeles. The structure of these economic concessions is under discussion, but, under the terms of this proposal, the County of Los Angeles, the fee owner of parcels in Marina del Rey, will have to consider significant reductions in both the lease extension fees and county ground rent during the construction period and throughout the term of the affordable housing covenant than it would have received if all 544 units of the proposed project were market-rate units. Still, even with financial concessions, the benefits of redevelopment of Parcels 100 and 101 to the County are clear and compelling.

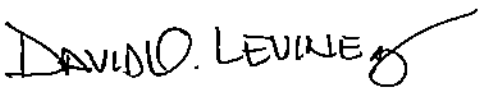
As reported in earlier testimony, it should also be noted that 54% of the ground rent proceeds from Marina del Rey ground leases are transferred from the County of Los Angeles General Fund to the County Department of Health and Human

Services. Thus, while the provision of replacement and inclusionary affordable units is laudable, and indeed required by the state Mello Act, where feasible, it is nonetheless also true that financial support for the County's health programs generated by this project will be reduced by virtue of the on-site provision of affordable housing in Marina del Rey.

Neither the applicant nor the County of Los Angeles propose that the proposed project enjoy the benefit of a density bonus, as would be permitted, indeed encouraged, by applicable state law and County codes. As noted in prior testimony, the applicant proposes the construction of 544 units for many reasons, including: 1) 544 is the maximum number of units which can be built in this type of construction on this site; a larger project would require a different and significantly more expensive type of construction which would adversely impact feasibility; 2) 544 units is well within the parameters for density and height as called for in the certified Marina del Rey Local Coastal Program; and 3) unlike the proposed 544-unit project, the construction of a project with more than 544 units would have the potential to impact the character of Marina del Rey and result in significant environmental impacts, including traffic and other potential adverse impacts on Marina infrastructure.

This proposal is consistent with the Mello Act in that it also balances the public policy goal of the provision of affordable housing with other environmental, social, and other technical factors which would be compromised significantly if the project were to be redesigned to increase the number of units and the building heights.

Respectfully submitted,



David O. Levine

Chief of Staff to Jerry B. Epstein

DOL:kh

Attachment

cc: Hon. Members of the Board of Supervisors of the County of Los Angeles

Stan Wisniewski, County Director of Beaches & Harbors

Blair Babcock, County Community Development Commission

Appendix A: Replacement Unit Count

Total Number of Units at Del Rey Shores	202
Less:	
Units with Housing Costs over the Threshold	52
Management Units	4
Vacant Units	14
Single Person Households >$55.1K	53
Two or More Person Households >$62.9K	47
Qualified Replacement Units	32
Less Roommates per Health and Safety Code 33413	2
Replacement Unit Requirement	30

Replacement Unit Distribution	1 BR	2 BR	Total
Single Person Households <$55.1K	16	4	20
Two or More Person Households <$62.9K	1	4	5
Roommates with 1 <$55.1	0	5	5
	17	13	30

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April 3, 2006

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County of Los Angeles
500 W. Temple Street
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Re: Legality of Marina Del Rey Affordable Housing Policy

Dear Honorable Supervisors, Commissioners and County Counsel:

The Legal Aid Foundation of Los Angeles (LAFLA) and Western Center on Law & Poverty (WCLP) submit this letter on behalf of People Organized for Westside Renewal (POWER) regarding the County's Marina del Rey Affordable Housing Policy and Policy Analysis (the "Policy"). On its face and as applied, the Policy violates the Mello Act's replacement and inclusionary housing provisions set out in Government Code §65590. In addition, the County's practice of segregating set-aside affordable units by age violates both the Mello Act and state and federal housing law. We have shared these concerns with County counsel and County staff and have been informed that the County plans to form a Mello policy task force and revise the Policy in the next six to twelve months. However, we are concerned that the County will approve developments and renegotiate ground leases in the interim prior to any change in the current illegal Policy and practices. Accordingly, we write to urge the County to cease any such project approvals and ground lease negotiations until its Policy is brought into compliance with the law.

LAFLA, WCLP and POWER are intimately familiar with the Mello Act (Gov't Code § 65590). In 1993, WCLP and the Legal Aid Foundation of Long Beach (now part of LAFLA) filed a lawsuit against the City of Los Angeles, alleging that the City failed to comply with its affordable housing obligations under the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678.) That suit resulted in a published opinion in our favor (47 Cal.App.4th 1547). The City of Los Angeles ultimately entered into a Settlement Agreement with LAFLA and WCLP in 2001 and adopted Interim Administrative Procedures for complying with the Mello Act, which currently govern the City's Mello Act compliance process.

In the last two years, LAFLA, WCLP and POWER have been actively involved in Mello Act cases in which developers have appealed the requirement to provide affordable units. In each instance, the outcome has been either on-site or off-site provision of affordable units. One case in particular involved a proposed 298 unit development in the Marina del Rey submarket. In that case, the developer (Trammell Crow Residential) agreed to include 24 on-site very low-income apartment units or 27 on-site very low-income condominium units, despite the fact that the developer had the additional expense of creating a $5 million access road and did not take advantage of a density bonus or other incentives.

I. The County Policy Fails to Meet Mello Act Requirements Regarding the Replacement of Affordable Units that are Converted or Demolished in the Coastal Zone.

The Mello Act prohibits the authorization of conversion or demolition of existing residential units "occupied by persons and families of low or moderate income" unless provision has been made for the replacement of those dwelling units." Gov't Code 65590(b). The Mello Act provides, "[r]eplacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit." *Id.* Moreover, replacement units must be net, new units. See Venice Town Council, 47 Cal. App. 4th at 1553.

The County's Policy violates the Mello Act's replacement housing obligations in a number of ways. First, on its face, the Policy contains no provisions to ensure that these replacement obligations are followed. In order to satisfy state law, the County's must ensure that the developers build replacement units in compliance with the Mello Act.

Second, the recent case of Del Rey Shores illustrates that the County's practice does not include a determination as to whether persons and families of low or moderate income reside in existing developments. The Regional Planning staff report regarding the project contains no discussion of the household income of current project residents. County planning staff testified at a January 25, 2006 Regional Planning Commission hearing regarding the project that the County had examined rent levels, but not tenant incomes at the project. Accordingly, it appears the County does not require developers or staff to examine existing tenant incomes when a developer proposes conversion or demolition of residential units. As a result, the County cannot meet its obligation under the Mello Act to require replacement units when units occupied by low or moderate income persons or families are proposed for demolition or conversion.

To comply with the Mello Act, the County should not approve demolition or conversion of any units currently located in the Marina without first determining whether any of these households are of low or moderate-income. If the County finds that units proposed for demolition or conversion are occupied by families of low or moderate income, the County should require developers to submit a plan for properly replacing those units before issuing any project approvals.

II. The County Policy Violates the Mello Act by Allowing Developers to Pay In-lieu Fees for Inclusionary Units When It Is Feasible to Provide Affordable Units On or Off-site.

The Mello Act provides: "New housing developments constructed within the coastal zone *shall*, where feasible, provide housing units for persons and families of low or moderate income . . . ." Gov't Code Sec. 65590(d) (emphasis added). Thus, if it is feasible for a developer to provide any inclusionary units, the developer must do so.

This provision of the statute does not have an exception permitting developers to pay a fee in-lieu of providing the affordable units. When the Legislature wanted to create an in-lieu exception, it knew how to do so.

The Mello Act specifically contemplates in-lieu fees for replacement units. Gov't Code § 65590(b) and (b)(4). However, the Mello Act contains no provision regarding in-lieu fees for inclusionary units. Accordingly, in-lieu fees may not be paid for inclusionary units under the Mello Act unless it is infeasible for a developer to provide any affordable units, either on or off-site.

The County Policy, by contrast, allows developers to pay in-lieu fees for inclusionary units when provision of some affordable units on or off-site is feasible.

In the event that on-site affordable units are infeasible, the Mello Act provides that "the local government *shall* require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof." The County's Policy fails to require an analysis of whether off-site provision is feasible and instead simply allows a developer to request an in-lieu fee. The County's Policy is additionally troublesome because the Policy does not require the County to spend the in-lieu fees within the coastal zone or within three miles of the coastal zone. The Policy allows the County to spend the Mello Act fees far outside the coastal zone in unincorporated areas of the County.

Thus, the County Policy violates the Mello Act by allowing in-lieu fees for inclusionary units where it is feasible for a developer to provide affordable units on or off-site and by failing to require an analysis of whether off-site provision of units is feasible when on-site provision is infeasible.

III. The County's In-lieu Fees Are Set At A Rate That Does Not Meet the Mello Act's Requirement to Create Net, New Units.

A. In-Lieu Fee for Replacement Units.

As noted above, the Mello Act allows for in-lieu fees for replacement units. Assuming the County's currently existing in-lieu fee for inclusionary units also applies to replacement units, the County's fee is set far too low to comply with the Mello Act's requirement that the in-lieu fee "will result in the replacement of the number of dwelling units which would otherwise have been required . . . ." Gov't Code § 65590(b)(4).

The County's fee schedule is set far too low because the County has: (1) improperly based the fee on a per unit "gap"; (2) improperly estimated land costs outside of the coastal zone; and (3) adopted an inadequate index for annual adjustments

The County erred in calculating the benefits of its proposed in-lieu fee in combination with other funding sources. In-lieu fees in and of themselves should be sufficient to create an entire affordable unit as opposed to filling "the gap" not covered by other funding sources. A study commissioned by the City of Los Angeles regarding the Mello Act estimated that the total in-lieu fee subsidy required for a low-income unit in the coastal area at about $215,000.[1] The County's Policy indicates that it reduced its in-lieu fee by assuming the existence of additional funding sources available for off-site developments. However, this assumption is flawed for two reasons. First, the Mello Act requires that replacement units be located on-site or within the coastal zone if feasible or, if this is not feasible, then within three miles of the coastal zone. Because the County does not have a program to build affordable units within the geographic area set out in

[1] This figure is too low because the data on which it is based is outdated. Development and land costs have risen dramatically in the last few years.

the Mello Act, the County cannot assume in-lieu fees will be used appropriately for replacement units. Second, the County's Policy states that state tax-exempt bond funding and state and federal tax credits are finite and that both programs are allocated on a competitive basis. Therefore, if the County or a non-profit developer obtains tax-exempt bond funding or tax credits, another affordable housing project that applied will not receive funding. The County's Policy of merely filling the gap thus leads to a reduction in the amount of affordable housing created.

As noted above, the Mello Act requires that replacement units be located on-site or elsewhere within the coastal zone if feasible. If not feasible, replacement units can be located within three miles of the coastal zone. The County's Policy regarding the in-lieu fee, however, ignores the Mello Act's preference that the replacement unit be located on-site or elsewhere within the coastal zone. Instead, the County adopted a 20% downward adjustment of land cost with the assumption that off-site units will be built within three miles of the coastal zone. This downward adjustment is not supported by the background information provided in Exhibit 2 of the County's Policy and violates the Mello Act's replacement provisions. Moreover, the County cannot assume any affordable units will be built within three miles of the coastal zone without verifying that land is available within that radius.

According to the County's Policy, the County calculated the fee for year 2002 and must adjust the fee in accordance with the Consumer Price Index (CPI) for this area. The CPI is an inadequate index with regard to construction and land costs. The County's consultant estimated a $48 per square foot cost for 2002. However, we know from the City's consultant that total development cost for 2005 was more than twice the CPI increase. By linking the in-lieu fee to an inadequate index, the County further deflates an already inadequate fee.

B. In-Lieu Fee Where No Inclusionary Units Are Feasible.

As noted above, an in-lieu fee is not allowed unless a developer shows that it is infeasible to include even one affordable unit on or off-site. In the case that a developer shows that no affordable units are feasible on or off-site, the developer should pay an in-lieu fee comparable to the fraction of the unit that is feasible. For the reasons set out above, however, the County's existing in-lieu fee schedule is too low.

IV. The County's Policy Relies on Flawed Methodology to Reach Erroneous Conclusions about the Feasibility of Mello Act Compliance.

After careful review of the County's Policy, it is evident that the Policy should be revised using alternative methodologies and thresholds.

A. Measuring Returns and Choosing Thresholds

The County Policy measures feasibility of apartment projects using net operating income divided by total development cost (NOI/TDC). This measure provides only a partial picture of the developer's return—a picture of the current operating return. In fact, investors also rely in part on returns to be gained by the increasing value of their projects above the cost of developing them—value received whether at actual sale or as an asset onto which they hold. The conventional way of assessing return on an apartment development is to undertake a two step analysis:

- to value the structure as if it were being sold, based on its current income and the capitalization rate that reflects the market's assessment of the value of the income stream it will produce over time, or
  Value= NOI/Cap Rate
- to assess profitability in terms of that Value relative to the costs of development

The best mechanism for undertaking the second step is to evaluate Internal Rate of Return (IRR), in order to measure the return on what the developer actually invests (equity) as distinct from the construction loan. This is the methodology that was used by the Los Angeles Housing Department in its evaluation of Mello Act compliance at the Trammell Crow Residential development in the Marina del Rey submarket.

For any measure, the threshold level employed is key. The County's threshold level is far too high for the measure it uses, producing much higher return thresholds than we know developers are seeking. The County uses a 10% to 10.5+% threshold level for its NOI/TDC measure. Applying a reasonable capitalization rate of 0.07[2] and some algebra, the County's threshold level of 10% equals an Internal Rate of Return between 32% and 66% depending on whether it takes two or four years from investment to sale or valuation.[3] This is nearly two to nearly four times as high as the 18% level that is in the middle of the consensus range of 15% - 20% for the threshold for that measure.

B. County Leasing Rates

The County's Policy requires the County to consider a reduction in County rent of less than 53% where affordable units are proposed. The Policy states that the County would be making an economically indefensible decision if it were to allow a reduction of 53% or more. However, nothing scientific leads to this presumption. In fact, according to Exhibit 2 of the Policy, the County has accepted lower lease rates in the past. And we know from our experience

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[2] Capitalization rates in West Los Angeles, according to HR&A appendices and other sources, currently range from under 0.05 to 0.064.

[3] This assumes (1) two to four years from investment to sale or valuation and (2) construction financing for 70% of total development cost

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
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AFFORDABLE HOUSING
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To: Stan Wisniewski, Director
Los Angeles County Department of Beaches & Harbors

From: Kathleen Head

Date: April 7, 2006

Subject: Mello Act: Coastal Cities Survey

At your request, Keyser Marston Associates, Inc. (KMA) surveyed cities and counties to ascertain how coastal jurisdictions are complying with the requirements imposed by the Mello Act (Government Code Section 65590). The survey included Internet searches, phone surveys, and email survey via HCED Listserve. The survey questions were:

1. How are local jurisdictions dealing with the conversion or demolition of existing residential dwelling units occupied by persons of low or moderate income within the Coastal Zone?

2. What methodology is used to define whether a tenant is a "low or moderate income household"?

3. What evaluation methodology is used to determine whether it is infeasible to provide replacement housing?

The fundamental finding of the KMA survey is that the vast majority of the jurisdictions have incorporated a Local Coastal Program (LCP) into the Housing Component of the General Plan. Commonly, the LCP indicates that the jurisdiction will comply with the requirements imposed by the Mello Act. However, very few jurisdictions spell out the specific terms or definitions that will be imposed to fulfill the defined requirements. The pertinent results of the KMA surveys are summarized below:

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CITY OF SAN DIEGO COASTAL OVERLAY ZONE AFFORDABLE HOUSING REPLACEMENT REGULATIONS (MUNICIPAL CODE, ARTICLE 3, DIVISION 8)

The regulations mirror State law. The replacement requirements can be fulfilled by the creation of units that are affordable to and occupied by low and moderate income persons or families. The Executive Director of the San Diego Housing Commission is responsible for determining low and moderate income affordability standards and residents' qualifications. The acceptable methods for the fulfilling the requirements are:

1. Conversion of existing market-rate dwelling units to income restricted units;

2. Conversion of existing non-residential development to income restricted residential units;

3. Development of new income restricted dwelling units;

4. Substantial rehabilitation of deteriorated or dilapidated dwelling units, and subsequent conversion to income restricted units; or

5. Developers can contribute real property, subject to the San Diego Housing Commission Executive Director's approval of the donated site.

Developers can pay an in-lieu fee to the San Diego Housing Trust Fund instead of producing the replacement housing units; the fee amount is set by the San Diego Housing Commission and updated annually. Any time the in-lieu fee option is selected, the San Diego Housing Commission must prepare a Coastal Affordability Housing Compliance Agreement that identifies the number and type of dwelling units that the Commission will be required to provide to fulfill the replacement housing obligation.

NEWPORT BEACH DRAFT LOCAL COASTAL PROGRAM (CHAPTER 20.86 COASTAL ZONE AFFORDABLE HOUSING REPLACEMENT REGULATIONS)

The draft regulations spell out the replacement housing obligations. The development options are exactly the same as the options detailed in the San Diego regulations. The Planning Director has the authority for determining the following:

1. The regulations require an income survey of the existing residents to be provided by the owner. The Planning Director then has the authority to determine whether any of the units proposed to be converted or demolished are occupied by persons or families of low or moderate income. Only units deemed to be

occupied by persons or families of low or moderate income are required to be replaced.

2. The Planning Director establishes the low income and moderate income affordability standards to be applied.

Developers can pay an in-lieu fee to the City of Newport Beach. The Newport Beach City Council adopts and updates the in-lieu fee schedule. In the past, the City of Newport Beach undertook an in-lieu fee study for each project that would be subject to the replacement housing obligations.

If the in-lieu fee option is selected, the City of Newport Beach must prepare a Coastal Affordable Housing Compliance Agreement. This Agreement identifies the obligations the City will have to comply with to provide the requisite number of replacement units.

CITY OF LONG BEACH (MUNICIPAL CODE CHAPTER 21.61 MAINTENANCE OF LOW INCOME HOUSING IN THE COASTAL ZONE)

The administration of the replacement housing program and in-lieu fee payment are delegated to the Long Beach Housing Authority.

1. The Housing Authority determines whether the units were occupied by low or moderate income households based on a rent/sales price affordability test. The actual incomes of the households are not surveyed. The Code Section imposes the following data requirements on the owner:

    a. The owner must provide the average rent levels achieved over a three-year period.

    b. The fair market sales value is established based upon prior sales and assessment records.

2. The replacement housing obligation can be fulfilled with new units on-site, new units off-site, rehabilitated units off-site, off-site conversions.

    a. The income restrictions for rental units are based on the California Redevelopment Law Section 50053 affordable housing cost definition.

    b. The income restrictions for ownership units are based on 2-1/2 times the applicable income level.

3. The Code Section allows developers to pay a fee in lieu of producing the replacement units. The fee is to be adjusted annually.

CITY OF LAGUNA BEACH (HOUSING ELEMENT WITH REFERENCE TO STATE GOVERNMENT CODE SECTION 65590)

1. Table 24 of the Housing Element states that the conversion or demolition of three or more low or moderate income housing units requires the replacement of an equivalent number of low or moderate income housing units in the City.

2. The replacement units must be provided at the same time as the conversion or demolition takes place.

3. If it is determined that the provision of replacement units is infeasible, the developer can pay an in-lieu fee.

    a. The fee amount is based on the square footage of the residences being removed/converted.

    b. The fee is equal to the most current building valuation fee as established by the ICBP Building Standards Building Valuation Data.

CITY OF SANTA BARBARA

The City's LCP was certified in 1981, but the City does not have a replacement housing ordinance for the Coastal Zone. The City deals with residential conversions and demolitions within the Coastal Zone by surveying the rent paid by households, not individuals. If the rent paid does not meet affordability standards then the unit does not qualify for replacement.

A summary of affordable housing activities in the Coastal Zone over the past 20 years follows:

1. There has only been one case where a rental unit was replaced.

2. In several other cases the City staff grappled with what information was needed to determine whether the proposed demolition triggered State Code Section 65590 requirements, and then ultimately determined that the projects were not subject to the requirements.

3. The City recently approved a project that resulted in the demolition of 13 rental units. Some of the units were not legal structures, and those that were legal did not meet affordability standards for the rent charged. Additionally, they did not conform with the City's density standards.

CITY OF SANTA CRUZ COASTAL REPLACEMENT HOUSING ORDINANCE

Residential structures being demolished in the Coastal Zone are subject to relocation and replacement housing obligations. If the developer surveys the residents prior to demolition, the survey results can be used to identify eligible low and moderate income households. If the demolition has already occurred, the City of Santa Cruz deems that all the residents were low or moderate income households. The ordinance provides for an in-lieu fee alternative; the fee is adjusted annually.

CITY OF VENTURA

The Local Coastal Program in threaded into the General Plan. No implementation component is included. Rather, the replacement housing obligations are identified on a case-by-case basis. It has been the City's experience that most of the residents residing in structures within the Coastal Zone would not qualify as low or moderate income households.

CITY OF PISMO BEACH (HOUSING ELEMENT H-13 DEMOLITION OR CONVERSION OF RENTAL HOUSING IN COASTAL ZONE)

The Housing Element summarizes and reiterates State law pertaining to replacement housing obligations in the Coastal Zone.

It has been the City's experience that the requirements are cumbersome and easy to work around. If a developer wants to replace affordable housing with something else, they tend to give notice to the tenants well ahead of the time of application. The most the City has achieved with these policies is some relocation assistance.

CITY OF ENCINITAS

The Local Coastal Program is woven in the Housing Element. The Local Coastal Program does not offer specific implementation provisions for demolition or conversion of existing residential units occupied by persons and families of low or moderate income.

CITY OF HUNTINGTON BEACH

The City's replacement housing policy is a restatement of State law.

CITY OF OCEANSIDE

A housing plan was adopted in 1982. There is no other provision for replacement housing in the Coastal Zone other than what is provided for in the State law. It has been the City's experience that residential owners either raise the rents to discourage low or moderate income households from residing in the units, or they leave the units vacant for 1-1/2 years prior to a conversion/demolition.

ORANGE COUNTY

There are currently two active projects in the Coastal Zone, and the developers have been informed of their obligation to comply with the Mello Act requirements. However, no methodology has yet been established for quantifying these requirements or determining whether the provision of replacement housing units is feasible.

CITY OF SANTA MONICA

The City does not have an established policy for fulfilling the Mello Act requirements. The Community Development Department is unaware of any projects that would have triggered the Act's requirements over the past 15 years.

CITY OF CORONADO

Municipal Code Chapter 82.40 establishes criteria for the conversion of existing multiple-family, rental housing to condominiums. An application for conversion shall not be approved unless the City Council finds that the conversion would not displace predominantly low and moderate income families or tenants without adequate provision for suitable relocation of such families or tenants.

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April 12, 2006

VIA E-MAIL

The Honorable Regional
Planning Commission of the
County of Los Angeles
320 West Temple Street, 13th Floor
Los Angeles, CA 90012

Re: The Shores Project-County Project No. R2005-00234-(4);
Coastal Development Permit No. RCDP 20050002;
Parking Permit No. RPK 20050004 and
Variance No. RVAR 20050004 (Scheduled for Consideration by the Commission at its April 19, 2006 Meeting).

Dear Commissioners

As you know, we represent Del Rey Shores Joint Venture and Del Rey Shores North Joint Venture with respect to the above-referenced project (the "Project"). We are writing to respond to a letter dated February 28, 2006 from Roger Van Wert on behalf of the developer of a competitor apartment project. While this letter does not present any important new information, and will be addressed in the final EIR, we have prepared the following response in order provide the Regional Planning Commission with the most complete record possible for its April 19, 2006 meeting.

A. Discussion.

1. The Project Will Not Result in any Significant Sewer Impacts. Mr. Van Wert asserts that the Project's Sewer Area Study is flawed because it did not adequately address potential cumulative impacts on the sewer system. In fact, the Section 5.9.5.1.1 of the County's Draft EIR for the Project (the "DEIR") specifically addressed such cumulative impacts.

Moreover, Section C.12 of the Marina del Rey Land Use Plan (the "LUP") addressed potential impacts on sewer capacity resulting from full buildout under the LUP. The LUP contains policies and actions to assure that there is proof of availability of adequate sewer facilities. In cases where existing unused capacity cannot meet increased demand, developers will be required to finance necessary improvements before development to proceed. Section 5.9.5.1.1 of the DEIR therefore correctly concluded that there will not be a cumulative impact on sewer capacity because each project will be required to provide adequate capacity and pay fees to connect to the sewer system. The fees will be used to implement additional improvement. It should be noted that the EIR previously certified by your Commission for the project being

developed by Mr. Van Wert's client contains exactly the same language regarding cumulative sewer impact analysis.

We understand that the County consulted with the City of Los Angeles as part of the LUP process, and as a result the City has taken future development under the LUP in account in planning for sewer capacity infrastructure improvements. These improvements include, among other things, the upgrading of the force main from the City's Venice Pumping Station to accommodate additional flows from future development in the Marina.

2. The Applicant has Submitted a "Fire Safe Plan". Mr. Van Wert states that the applicant should be required to provide a Fire Department-approved "fire safe plan" for the Project. This plan has been approved by the County Fire Department and is on file with the Department of Regional Planning.

3. The Project Will Not Result in Any Significant Grading Impacts. Mr. Van Wert asserts that the Project will require 77,438 cubic yards of excavation to construct the below grade parking structure. Since much of the parking structure will not, in fact, be below grade, the earth work volumes will not be as large as suggested by Mr. Van Wert.

At the time the DEIR was prepared, the conceptual grading plan showed that the Project would involve a balanced earth work volume of approximately 40,000 cubic yards. Since the DEIR was prepared, the applicant has continued to prepare detailed construction plans, which is typical for development projects of this nature. In the course of developing these plans, the applicant identified additional constraints on the Project, including the need to place a deeper level of gravel beneath the floor of the subterranean portion of the garage as recommended by the soil engineer and the need to keep within the proposed building height to maintain the current construction type. These additional constraints have resulted in a minor increase in earthwork to approximately 59,000 cubic yards of cut, 25,000 cubic yards of fill, and an export of 34,000 cubic yards. We understand that the final EIR will address this issue in greater detail.

4. No Additional Mitigation Measures are Warranted. Mr. Van Wert suggests a number of additional conditions which will purportedly mitigate project impacts. The DEIR adequately analyzes all potential Project impacts and includes mitigation measures to reduce these impacts to a less than significant level. Therefore, no additional mitigation measures are warranted.

5. The DEIR Does Not Need to be Recirculated. Mr. Van Wert requests that the County recirculate the DEIR. CEQA Guidelines Section 15088.5 provides that a lead agency is required to recirculate an EIR only when significant new information is added to the EIR after the public comment period. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such

effect that the project proponents have declined to implement. Significant new information includes a disclosure showing that (a) a significant new environmental impact would result from the project or from a new mitigation measure proposed to be implemented, (b) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance, (c) a feasible project alternative or mitigation measure considerably different from the others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents decline to adopt the alternative or measure, or (d) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. CEQA Guidelines Section 15088.5(b) provides that recirculation is not required when the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications to an adequate EIR.

In this case, Mr. Van Wert's letter consists entirely of unsupported assertions, speculation, and statements of opinion, and does not present any significant new information, as defined in CEQA Guidelines Section 15088.5. Therefore, the DEIR does not need to be recirculated.

We hope that the foregoing has been helpful. Please do not hesitate to contact us if we may provide any further information.

Very truly yours,

Dale J. Goldsmith

cc: The Shores
Aaron Clark

DJG:rsg

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Dear Commissioners:

As you know, we represent Del Rey Shores Joint Venture and Del Rey Shores North Joint Venture with respect to the above-referenced project (the "Project"). We are writing to respond to a letter dated February 27, 2006 from Richard I. Fine & Associates on behalf of the Marina Strand Colony II Homeowners Association, who are the residents of a condominium complex located in the City of Los Angeles. While Mr. Fine's letter does not present any important new information, and will be addressed in the final EIR, we have prepared the following response in order provide the Regional Planning Commission with the most complete record possible for its April 19, 2006 meeting.

A. Discussion.

1. The Project is Consistent with the Trip Cap Established by the LCP. Mr. Fine asserts that the Project and other pending projects will cause the trip cap under the Marina Del Rey Local Coastal Program ("LCP") to be exceeded. The LCP establishes a p.m. peak hour vehicle trip cap for Marina Del Rey Second Generation development (of which the Project is a part) of 2,750 vehicle trips. The Project and all other currently pending development projects subject to the LCP would only generate 681 p.m. peak hour trips, or less than 25% of the maximum amount allowed.

The LCP identifies a series of mitigation measures to address the impacts of traffic generated by new development. Among other things, the Project and the other projects will be assessed a trip fee of almost $6,000 per p.m. peak hour trip. This money will be used to build the infrastructure necessary to accommodate additional traffic flows.

2. The DEIR Fully Analyzes Potential Wind Impacts. Mr. Fine also alleges that the County's draft environmental impact report ("DEIR") for the Project does not fully assess wind impacts. As set forth in our letter dated February 22, 2006, the DEIR includes an extensive analysis of potential wind impacts from the Project. This wind analysis expressly considered potential cumulative impacts from the Project and expected future development in the area. The analysis shows that the Project will not affect existing wind conditions in Marina Del Rey.

3. The DEIR Adequately Analyzes Potential Seismic Safety Impacts. Mr. Fine argues that the DEIR is deficient because it fails to include a thorough site specific geologic and soils study which addresses peak ground acceleration (pga) of 0.5g during an earthquake and the potential for liquefaction. In fact, the Geotechnical Investigation prepared by URS and attached as Appendix 5.1 to the DEIR expressly considers both issues and includes numerous design specifications to adequately address potential seismic safety impacts. See also page 5.1-8 of the DEIR. Moreover, the County Public Works Department requires that a full Geotechnical analysis be reviewed and approved prior to approval of any building plans.

Mr. Fine also argues that the Project could collapse onto his clients' condominiums during an earthquake. The Project will be designed in accordance with the most current State and County seismic safety requirements. As a result, the Project will be safer in an earthquake than the existing apartment units on the site, or the condominiums. There is minute risk that the Project would collapse onto Marina Strand Colony II, which are located across an alley and buffered by storage uses.

3. The Project will Implement all Required Mitigation Measures. Mr. Fine also alleges that the number of new trips from all new development will exceed 50% of the total allotted new trips for the Second Generation Marina Del Rey under the LCP. Therefore, he asserts, the Project cannot be approved unless certain mitigation measures have been approved and funded.

As set forth above, the total number of vehicle trips generated by the Project and the other pending development will be less than 25% of the maximum allotted trips. Therefore, the mitigation measures that are required when total trips exceed 50% of the maximum total allotted have not yet been triggered. As set forth above, both the Project and the related projects will be required to implement project-specific traffic mitigation measures and will pay a fee of nearly $6,000 per p.m. peak hour trip. These fees will be used to fund additional regional and subregional improvements.

4. Demolition of the Existing Structures Will Not Result in the Release of Asbestos. Mr. Fine argues that the demolition of the existing apartments on the Project site will release asbestos into the air. In fact, any existing asbestos will be removed and disposed of properly by a licensed asbestos abatement contractor in accordance with all applicable State and County laws

and regulations. Compliance with these existing laws and regulations will assure that there is no release of asbestos.

5. The Project Will Not Result in any Significant Sewer Impacts. Mr. Fine asserts that the DEIR has not adequately addressed potential impacts on the sewer system. Section C.12 of the Marina del Rey Land Use Plan (the "LUP") addressed potential impacts on sewer capacity resulting from full buildout under the LUP. The LUP contains policies and actions to assure that there is proof of availability of adequate sewer facilities. In cases where existing unused capacity cannot meet increased demand, developers will be required to finance necessary improvements before development to proceed. Section 5.9.5.1.1 of the DEIR therefore correctly concluded that there will not be a cumulative impact on sewer capacity because each project will be required to provide adequate capacity and pay fees to connect to the sewer system. The fees will be used to implement additional improvements.

We understand that the County consulted with the City of Los Angeles as part of the LUP process, and as a result the City has taken future development under the LUP in account in planning for sewer capacity infrastructure improvements. These improvements include, among other things, the upgrading of the force main from the City's Venice Pumping Station to accommodate additional flows from future development in the Marina.

6. The DEIR Adequately Analyzes Potential Impacts on the Water System. Mr. Fine further asserts that Staff Report and DEIR do not address potential impacts on the water system. Section 5.8 of the DEIR contains an extensive discussion of potential water service impacts from the Project, as well as the potential cumulative impacts from the Project and the related projects. The DEIR identifies certain water system upgrades, including an upgrade of the main water line in Via Marina from the existing 12-inch main to an 18-inch main. In addition, DEIR Mitigation Measure No. 5.8-1 requires the Project applicant to improve, to the satisfaction of LACDPW, water lines in Marqueses Way and Dell Avenue. The DEIR concludes at page 5.8-8 that the Project will not result in any significant impacts to water service.

Mr. Fine also alleges that there are not sufficient water entitlements for the Project. As stated at DEIR page 5.8-8, water entitlements have been secured through the Los Angeles County WWD No. 29 and are adequate to serve the existing uses and projected growth in Marina Del Rey. A letter from WWD No. 29 indicating its ability to serve the Project is included as Appendix 5.8 to the DEIR. Like the Project, each of the related projects would be required to provide to the County Department of Regional Planning a letter from WWD No. 29 stating that it is able to provide water service to such related project. Therefore, there will be no Project or cumulative impacts on water service.

7. The Applicant will be Required to Pay for Any Necessary to Water and Sewer Service Improvements. Mr. Fine asserts that the Staff Report does not address the issue of financing necessary water and/or sewage facilities improvements. As noted above, Mitigation

Measure No. 5.8-1 requires the applicant to implement, at its own cost, improvements to the water lines in Marqueses Way and Dell Avenue. The DEIR concluded that no further sewer or water line improvements are necessary to address potential project sewer or water impacts.

We hope that the foregoing has been helpful. Please do not hesitate to contact us if we may provide any further information.

Very truly yours

Dale J. Goldsmith

cc: The Shores
Marina Strand Colony II Homeowners Association

DJG:rsg

Thelma & Harvey Shaps

RECEIVED
MAR 2 2006

February 28, 2006

Supervisor Zev Yaroslavskty
500 Temple Street #821
Los Angeles CA. 90012

Reference: County Project R2005-00234

Dear Supervisor Yaroslavsky:

When is it enough? How can the County continue to permit the outrageous growth of the Marina and expect people to continue to live in this area which use to be considered one of the prime residential area's in the County? Very soon we will be land locked with no way in or out of the Marina because of the auto traffic which is already out of control.

The plan on this property if approved will go from 202 units to 544 units which is an increase of 342 units is this kind growth going to make the Marina a better place to live? I think you know all that you are doing besides increasing your revenue flow is making the lives of the current Marina residents Un pleasant. When will the people that govern our community begin to think about the people who have lived in the Marina for years and have watched the changes take place that have made this area over crowded and we have lost the peace and quiet of what use to be a beautiful residential area.

I suggest you review the options and be bold and step forward and make an effort to preserve the area. If a building has to be updated at least try and keep it the same size it's time we start to consider what the Marina should be instead of trying to crowd as many people as you can into this area.

Sincerely,

Harvey & Thelma Shaps

Copies: Councilman Bill Rosenthal, Rick Kuo Los Angeles County Department of Planning

311 Bora Bora Way #211 Marina del Rey CA 90292
marinashaps@aol.com

Daniel Henry Gottlieb
Professor of Mathematics
Purdue University, Lafayette, Indiana 47907
3516 Via Dolce
Marina del Rey, CA 90292
April 4, 2006

RECEIVED
APR 6 2006

Mr. Russell Fricano
County of Los Angeles Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: "The Shores Project", County Project No. R2005-00234-(4), Coastal Development Permit No. RCDP 200500004, Parking Permit No. RPK 200500004 and Variance No. RVAR No. 200500004

Dear Mr. Fricano,

EIRfrAUDO Quotes:

SHADOWS

"Figure 5.5-6 , shade shadow effects, depicts post-developement site conditions during 9AM and 3PM in the winter solstice (December 21) when the shadow effects would be GREATEST"
[Shadow effects are greatest at sunrise and sunset every day of the year.]
"As shown, shadows cast at 9AM affect the Dell Ave alley. Residential structures are not affected during the AM period."
[How many ways is this statement wrong?] First, as shown,it does affect our condos.
Second, at dawn, the shadows affect our condos every day of the year.
Third, the azimuth angle of the sun at 9AM on December 21 is 138 degrees, but the shadow drawn indicates an azimuth of 110 degrees which corresponds to 6 AM, about one hour before the sun rises!!! Everywhere shadow.
Fourth, the length of the shadow from the south end of the project is considerably different from the length of the shadow from the north end of the project, which implies that the heights of the buildings are different. You can calculate the length of shadows by the elementary trigonometric formula:

(height of building) divided by (length of its shadow) = **tan**(angle of elevation of the sun) .

As an example, assuming that the height of the building is 75 feet, and the length of the shadow is 270 feet since it looks like one centimeter corresponds to 100 feet of shadow on the map. Then the angle of elevation along the EIR's azimuth must be 15.52 degrees, which is about the altitude of the sun at about 8:30 AM. To get 9:05 AM, which corresponds to an elevation

of 20.32 degrees, the EIR must assume that the height of the building is 100 feet in order to get t he shadow along the false azimuth that is drawn.

Fifth, the azimuth is wrong in the picture for 3PM. The pictures have many other inconsistencies, not worth mentioning, but which you can find for yourself using the above equation, a scientific calculator, a ruler, and a protractor]

SCENIC VIEWS

"In the vicinity of the project site, via Marina is defined as a ' scenic Highway meriting the first priority status for further study. However no information is incorporated " (DIER page 5.5-3)
[With this statement the DEIR acknowledges they don't know what scenic views are. I have taken some and include them with this letter and I estimate the blockage of the view by the Shores project and the related parcel K-6 proposed storage building]

"Surveys conducted by Impact Sciences indicated that these features [water and boating operations] are NOT VISIBLE from the project site" (DEIR page 5.5-3). [See picture.]

EXTRA EXTRA

Environmental Impact Report from Alternate Universe Development Office casts HORRIBLE SHADOW: It is WRONG from any angle.

Ask not upon whom the shadow will fall, it will fall upon THEE. --- *Junk Donne*

Sincerely,

Dan Gottlieb
Dan Gottlieb
How can I get a disc of the DEIR?

Astronomical Applications Dept.
U.S. Naval Observatory
Washington, DC 20392-5420

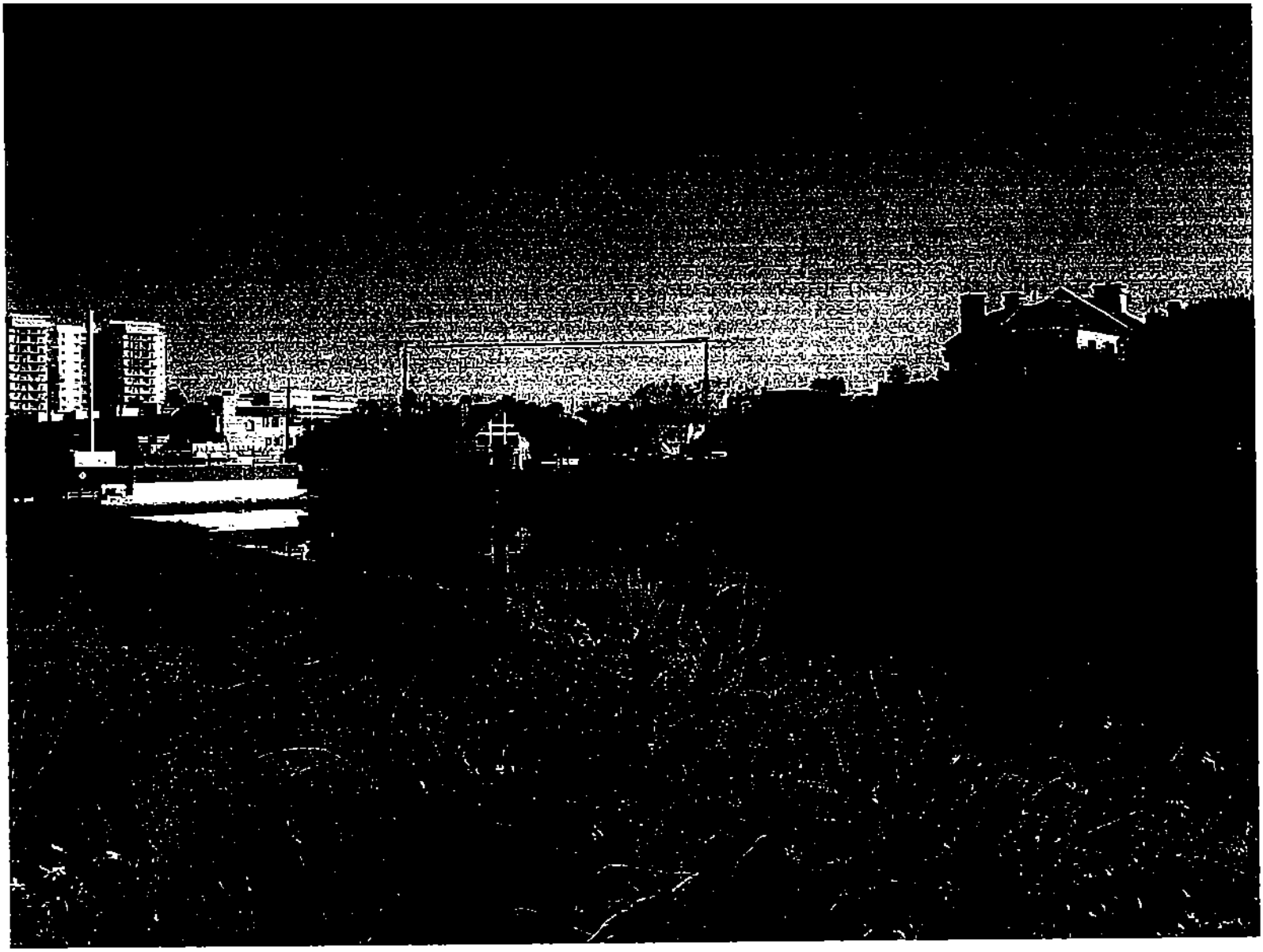
LOS ANGELES, CALIFORNIA
W118° 22', N34° 05'

Altitude and Azimuth of the Sun
Dec 21, 2010
Pacific Standard Time

h m	Altitude °	Azimuth (E of N) °
06:00	-11.2	110.8
06:10	-9.3	112.1
06:20	-7.4	113.4
06:30	-5.5	114.7
06:40	-3.6	116.0
06:50	-1.8	117.3
07:00	0.5	118.7
07:10	2.1	120.1
07:20	3.8	121.6
07:30	5.5	123.1
07:40	7.2	124.6
07:50	8.9	126.2
08:00	10.5	127.8
08:10	12.1	129.4
08:20	13.7	131.2
08:30	15.2	132.9
08:40	16.7	134.7
08:50	18.1	136.6
09:00	19.5	138.5
09:10	20.9	140.5
09:20	22.2	142.5
09:30	23.4	144.6
09:40	24.6	146.8
09:50	25.7	149.0
10:00	26.7	151.3
10:10	27.6	153.6
10:20	28.5	156.0
10:30	29.3	158.5
10:40	30.0	161.0
10:50	30.7	163.5
11:00	31.2	166.1
11:10	31.7	168.8
11:20	32.0	171.4
11:30	32.3	174.1
11:40	32.4	176.8
11:50	32.5	179.5
12:00	32.5	182.3
12:10	32.3	185.0
12:20	32.1	187.7
12:30	31.8	190.3

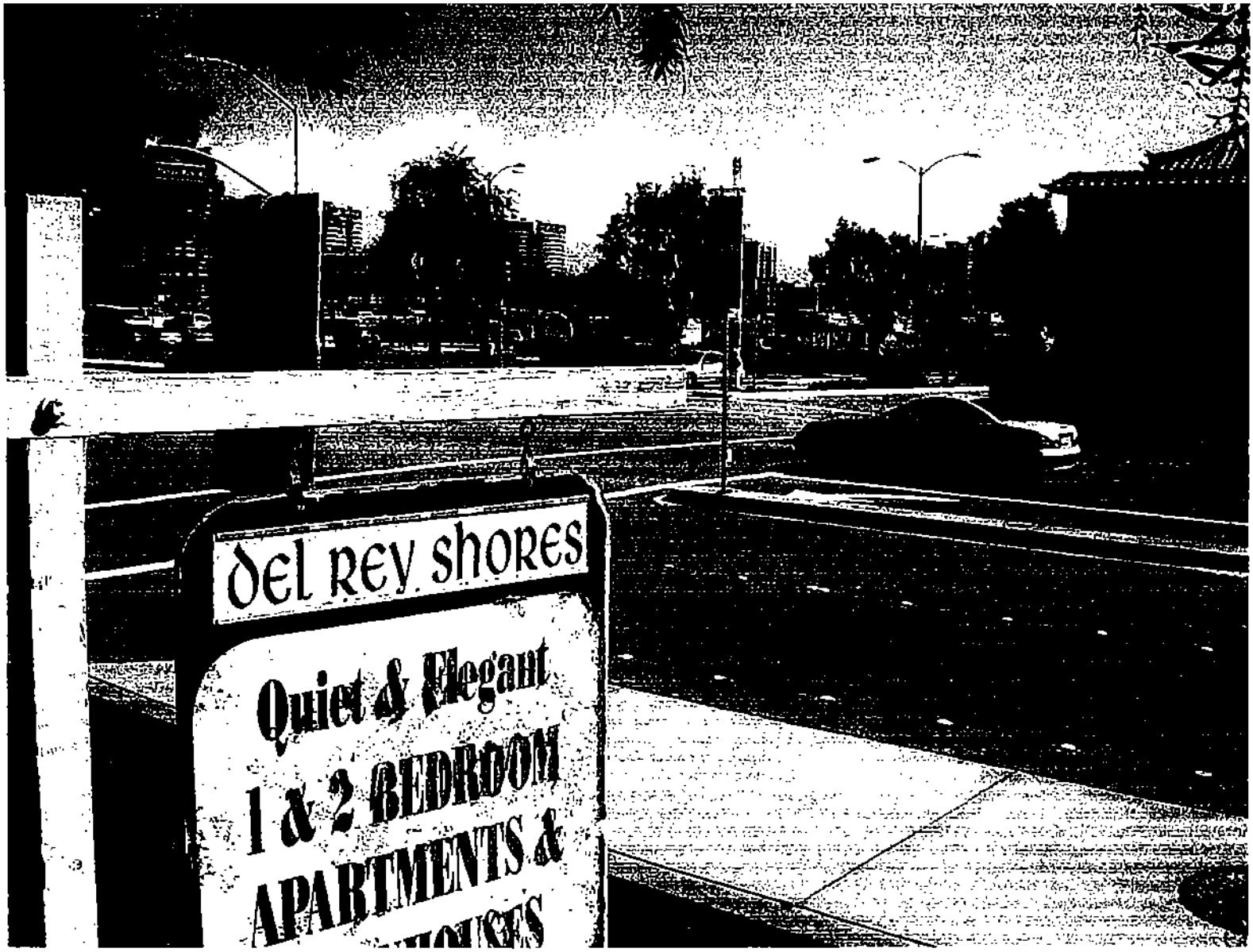
Before Sunrise

← 135° No Shadow To West



Picture of the project from the scenic trail along Balona Lagoon. The yellow building at the right side of the estemated new building is a 2 story building belonging to Del Rey shores.

View from Via Marina showing Santa Monica Mountains. Lower building drawn on the left represents the K-6 proposed storage area. The grey roof to the left of the signal is the top of a 4 story building belonging to the Archwood.
Sight seeing traffic is high at this point since Via Marina ends at a beautiful view of the Marina channel, one of the most popular viewing areas in the Marina.



"Surveys by Impact Sciences indicate the that these features [Water and boating operation are not visible from the Project Site" (P 5.5-3 DEIR)

THE SHORES PROJECT

DRAFT
ENVIRONMENTAL IMPACT REPORT

Volume I

COUNTY PROJECT NO. R2005-00234-(4)
COASTAL DEVELOPMENT PERMIT NO. RCDP 200500002
PARKING PERMIT NO. RPKP 200500004
VARIANCE NO. RVAR 200500004
STATE CLEARINGHOUSE NO. 2005071080

Los Angeles County
Department of Regional Planning
320 West Temple Street
Los Angeles, California 90012

November 2005