

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Th14b

Filed: 9/29/2006
49th Day: 11/17/2006
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 11/2/2006
Hearing Date: November 16, 2006
Commission Action:

**STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

APPEAL NUMBER: A-5-LOB-06-400
APPLICANT: Greenberg Farrow
LOCAL GOVERNMENT: City of Long Beach
PROJECT LOCATION: 400 Studebaker Road, City of Long Beach, Los Angeles County.
LOCAL DECISION: Approval with Conditions – Case No. 0308-11

APPELLANTS: Coastal Commissioners Sara Wan & Larry Clark; Rena Akers; Heather Altman; Tim Anderson, Janice Dahl & Mary Parsell; Ann Cantrell; Melinda Cotton; Doug Drummond & Thomas Marchese; Charles W. Legeman; Mary Beth Mashburn; Jeff Miller; Dean Richardson; and Mary Suttie & Dave Robertson.

PROJECT DESCRIPTION: Appeal of City of Long Beach approval of Local Coastal Development Permit Application No. 0308-11, approved with conditions for a 140,000 square foot home improvement and garden center, a 6,000 square foot restaurant, and two retail/commercial buildings totaling 12,000 square feet, with 752 parking spaces; and a subdivision (Parcel Map No. 067384) of the project site (a tank farm) in order to create a separate lot for above ground fuel storage tanks.

Project Area	16.46 acres
Building Coverage	155,156 square feet
Pavement Coverage	374,000 square feet (approx.)
Landscape Coverage	154,698 square feet (approx.)
Parking Spaces	752
Zoning	Planned Dev. District PD-1 (SEADIP)
Plan Designation	Planned Development - Industry
Ht above final grade	35 feet

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that the appeals raise **a substantial issue** for the following reasons: 1) the certified City of Long Beach Local Coastal Program (LCP) designates the project site for an industrial use, while the City approval allows a commercial land use; 2) approval of a land use that is not consistent with the certified LCP could result in unanticipated and cumulative impacts to the adjacent area and may prejudice future decisions for the area as the LCP is being updated; 3) the proposed development does not meet the LCP open space requirements (30% of the project area); 4) the proposed development could adversely affect wildlife, wetlands and the adjacent tidal waters; and, 5) the traffic generated by the proposed commercial development may adversely impact coastal access. If the Commission adopts the staff recommendation, a de novo hearing will be scheduled for a future Commission meeting. **The motion to find Substantial Issue is on Page Five.**

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach Certified Local Coastal Program (LCP), 7/22/80.
2. City of Long Beach Planned Development Ordinance PD-1 (SEADIP).
3. City of Long Beach Local Coastal Development Permit No. 0308-11.
4. Environmental Impact Report for Long Beach Home Depot (SCH No. 2004031093).

I. APPELLANTS' CONTENTIONS

Several persons and two Coastal Commissioners (Sara Wan and Larry Clark) have appealed the City's approval of Local Coastal Development Permit No. 0308-11 (Exhibits #6-16). The issues raised by the appeals include the questions of whether the City-approved commercial land use is appropriate for a site designated for industrial use by the certified City of Long Beach LCP, whether the City-approved variance to the LCP open space requirements is allowable given the standards for variances in the LCP, whether the impacts to wildlife habitat and the adjacent tidal waters and wetlands (i.e., water quality, increased traffic and lighting impacts) have been adequately identified and mitigated, and whether the traffic generated by the City-approved development will adversely impact coastal access (via increased traffic and congestion and elimination of existing bicycle routes).

The Commissioner's appeal states:

The certified City of Long Beach LCP designates the project site for an Industrial Land Use (PD-1, SEADIP Subarea 19, Use: Industrial). The City-approved development is a commercial land use. Therefore, the local coastal development permit authorizes a land use that is not consistent with the certified LCP. The approval of a land use that is not consistent with the certified plan for the area may result in unanticipated and cumulative impacts to the adjacent area (e.g. other tank farms, the traffic system, the Los Cerritos Wetlands and open spaces, etc.). The certified specific plan for the project area (SEADIP - Southeast Area Development and Improvement Plan) was developed in the 1970s and needs to be updated in order to address current concerns, issues and land use regulations. The City and the SEADIP local community advisory group are having meetings regarding the update of the SEADIP plan. The City's approval of a land use that is not consistent with the certified LCP may prejudice future LCP decisions for the SEADIP area.

The Open Space and Recreation Element of the City's General Plan, adopted by reference as part of the certified LCP, states (Goals: Open Space – Special Purposes): "Goal a) To preserve open space needed for utilities, communications and transportation facilities, sites and corridors." The City's action does not preserve the site (subsequent to the necessary toxic soils remediation project) for such uses.

The certified City of Long Beach LCP requires a minimum of thirty-percent (30%) of the project area be preserved as usable open space (PD-1, SEADIP). Building footprint, streets, parking areas and sidewalks adjacent to streets shall not be considered usable open space. The City-approved development would maintain only 22 percent of the project site as usable open space. Therefore, the local coastal development permit authorizes a development that is not consistent with the certified LCP. The open

space provided on the site is necessary to maximize the width of a buffer to separate the areas of intense human activity from the nearby sensitive habitat areas.

The City-approved development would impact the adjacent tidal waters and wetlands (i.e., toxic soils remediation, runoff water quality, increased traffic and lighting impacts). The Commission should review the project in order to ensure that the impacts to sensitive habitat areas will be adequately mitigated.

The traffic generated by the City-approved development may adversely impact coastal access (via increased traffic and congestion and elimination of existing bicycle routes). The Commission should review the project in order to ensure that the cumulative impacts will be adequately mitigated.

Please refer to Exhibits 6 through 16 for the grounds for the other appellants' appeals. In addition to the above-listed issues, the appeal submitted by Heather Altman challenges the adequacy of the biological surveys conducted on the project site, and asserts that the City erred in its determination that no wetland indicators (water, hydrophytes or hydric soils) exist on the site since a jurisdictional wetland delineation was not required or conducted (Exhibit #7: Heather Altman). The City-issued variance for the width of the proposed curb cuts on Studebaker Road, and an alleged forty-foot high building (in excess of the 35-foot height limit), are also listed as grounds for several of the appeals.

II. LOCAL GOVERNMENT ACTION

On October 3, 2006, the Long Beach City Council held a public hearing and approved with conditions the following:

1. City of Long Beach Local Coastal Development Permit No. 0308-11 (Exhibit #5)
2. Tentative Parcel Map No. 067384
3. Site Plan Review
4. Conditional Use Permit (to allow commercial use on a site designated for Industry)
5. Standards Variance (to provide less than thirty-percent open space)
6. Standards Variance (for three driveways that exceed the maximum 24-foot width)

The City Council also certified the Environmental Impact Report (EIR) for the proposed project (SCH# 2004031093) and adopted a Statement of Overriding Considerations. The City Council's meeting followed a City Planning Commission meeting held on August 17, 2006. Several persons, including the applicant, had filed 35 appeals of the Planning Commission's August 17, 2006 approval (with conditions) of the proposed development.

On October 19, 2006, the Commission's South Coast District office in Long Beach received from the City a valid Notice of Final Local Action for Local Coastal Development Permit No. 0308-11. The Commission's ten working-day appeal period was established on October 20, 2006. November 2, 2006 was the last day of the appeal period.

III. APPEAL PROCEDURES

After Coastal Commission certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on

coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act Section 30603(a)(5)].

The City of Long Beach Local Coastal Program (LCP) was certified on July 22, 1980. Section 30603(a) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location. The 16.46-acre project site is situated between the Los Cerritos Wetlands and the San Gabriel River tidal estuary (Exhibit #3). Rock-lined tidal channels, where Commission staff has observed the water levels change with the tidal cycle, and which therefore constitute the “sea” for purposes of the Coastal Act (Section 30115), bracket the northern and southern sides of the site. The project site is located within three hundred feet of the mean high tide lines in these channels, both of which connect directly to the Los Cerritos Channel and Alamitos Bay (Exhibit #2), and is thus appealable pursuant to Section 30603(a)(1).

In addition, the project site is located within one hundred feet of the tidal channels (each is an estuary as defined by the Coastal Act). Section 13577(c) of Title 14 CCR, which specifically defines terms for purposes of determining the Commission’s appeals jurisdiction, defines estuaries as coastal water bodies, “usually semi-enclosed by land, having open, partially obstructed, or intermittent exchange with the open ocean.” These tidal channels are open to the ocean, and Commission staff has confirmed that they have intermittent exchange with the ocean, rendering them estuaries for purposes of Section 30603. The San Gabriel River itself is also an estuary for the same reasons. There may also be wetlands within one hundred feet of the project site, but a wetlands delineation of all nearby wetlands does not exist.

The site is also between the sea (most prominently the San Gabriel River estuary, but, as indicated above, all of the water bodies discussed above constitute the sea for purposes of Section 30603) and the first public road paralleling the sea (Studebaker Road).

Section 30603 of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of substantial issue. If there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will hold a de novo public hearing on the merits of the application. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue. The Commission's finding of substantial issue voids the entire local coastal development permit action that is the subject of the appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds for the appeal regarding conformity of the project with the City of Long Beach Local Coastal Program and with the public access policies of the Coastal Act, pursuant to Public Resources Code Sections 30625(b)(2) and 30603(b).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-LOB-06-400 raises No Substantial Issue with respect to the grounds on which the appeal has been filed."*

Failure of this motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-LOB-06-400

The Commission hereby finds that Appeal No. A-5-LOB-06-400 presents a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The 16.46-acre project site is currently part of an electric generating facility (c.1951) situated between the Los Cerritos Wetlands and the San Gabriel River, immediately east of the intersection of Studebaker Road and Loynes Drive in southeast Long Beach (Exhibit #2). Rock-lined tidal channels bracket the northern and southern sides of the site, which is currently occupied by four large fuel-oil tanks, several smaller tanks, pipelines, sheds and a former hazardous material storage area (Exhibit #3). The applicant states that the fuel-oil tanks (and the land they are on) are no longer needed to run the electric generating facility since it was recently converted to run on natural gas. The project site falls within Subarea 19 of SEADIP (Southeast Area Development and Improvement Plan), a specific plan that covers the southeast portion of the City of Long Beach.

The proposed project includes: 1) a subdivision to create a new 1.1-acre lot within the project site in order to retain some above-ground fuel storage tanks and a retention basin; 2) the removal/demolition most of the existing development on the site (a tank farm consisting of four fuel-oil tanks, piping, sheds and a former hazardous material storage area); 3) rerouting of three existing pipelines through the site; 4) soil testing and monitoring; 5) soil remediation, including fill removal and recompaction; 6) traffic mitigation improvements along Studebaker Road; 7) improvements to the City's existing sanitary sewer system (approximately 530 linear feet of eight-inch diameter sewer pipes will be replaced with new ten-inch diameter pipes); 8) the construction of a sewer holding tank on the site and connection to the City's existing sanitary sewer system via a new two-inch diameter (double-walled) sewer line attached to the Loynes Drive Bridge; 9) connection to an existing natural gas pipeline via a new four-inch diameter natural gas pipeline; and 10) the construction of a commercial retail center. The proposed grading on the site involves approximately 40,460 cubic yards of cut, and 18,490 cubic yards of fill, with a net export of approximately 21,970 cubic yards of potentially contaminated soils.

The proposed commercial retail center includes a 752-stall paved parking lot with forty-foot tall light standards and water quality improvements (e.g., oil and trash separators), a 140,000 square foot home improvement and garden center, a 6,000 square foot restaurant with a 2,050 square foot outdoor dining patio, two detached retail/commercial buildings totaling 12,000 square feet, a public sidewalk along Studebaker Road, signage and landscaping. The

proposed buildings would be 30-to-35 feet tall. Vehicular access to the proposed commercial retail center would be provided only from Studebaker Road, with the primary entrance located at an improved intersection of Studebaker Road and Loynes Drive (Exhibit #4).

The proposed traffic mitigation improvements include: an enlarged and improved intersection of Studebaker Road and Loynes Drive, new north and southbound traffic lanes added to Studebaker Road (within the existing paved right-of-way), and installation of a new synchronized traffic signal system along Studebaker Road.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission find that **a substantial issue** exists for the reasons set forth below.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

The question of whether the City-approved commercial land use is appropriate for a site designated for industrial use by the certified City of Long Beach LCP is a substantial issue. The project site falls within Subarea 19 of SEADIP (PD-1 - Southeast Area Development and Improvement Plan), a specific plan that covers the southeast portion of the City of Long Beach. The certified City of Long Beach LCP designates the project site for an Industrial Land Use. The standards for SEADIP Subarea 19 are set forth as follows:

Subarea 19

- a. Use: Industrial
- b. This area is fully developed in accordance with the provisions of the IG zone.
- c. Commercial storage/self-storage (21.215.570) shall be allowed by Conditional Use Permit (21.52.219.5).

The City-approved development is a commercial land use, but not commercial self-storage. The City approved a conditional use permit for the proposed commercial retail use. Therefore, the local coastal development permit authorizes a land use that is not consistent with the certified LCP. The approval of a land use that is not consistent with the certified plan for the area may result in unanticipated and cumulative impacts to the adjacent area (e.g. other tank farms, the traffic system, the Los Cerritos Wetlands and open spaces, etc.). The certified specific plan for the project area (SEADIP - Southeast Area Development and Improvement Plan) was developed in the 1970s and needs to be updated in order to address current concerns, issues and land use regulations. The City and the SEADIP local community advisory group are having meetings regarding the update of the SEADIP plan. The City should develop an updated plan for the area before new subdivisions are approved or new land uses established. Alternative land uses for the site need to be considered (e.g., coastal-dependant industry and recreation). The Open Space and Recreation Element of the City's General Plan, adopted by reference as part of the certified LCP, states (Goals: Open Space – Special Purposes):

“Goal a) To preserve open space needed for utilities, communications and transportation facilities, sites and corridors.”

The City's action does not preserve the industrial site (subsequent to the necessary toxic soils remediation project) for such uses. The City's approval of a land use that is not consistent with the certified LCP may prejudice the future LCP decisions for the SEADIP area. Therefore, the Commission finds that the appeals raise a substantial issue.

The question of whether the proposed project maintains adequate open space is a substantial issue. The open space provided on the site is necessary to maximize the width of a buffer to separate the areas of intense human activity from the nearby sensitive habitat areas, but the City did not require the applicant to maintain at least thirty-percent (30%) of the project area as usable open space (PD-1, SEADIP). The certified City of Long Beach LCP requires a minimum of thirty-percent (30%) of the project area be preserved as usable open space (PD-1, SEADIP). Building footprint, streets, parking areas and sidewalks adjacent to streets shall not be considered usable open space. The City-approved development would maintain only 22 percent of the project site as usable open space. The applicant has offered an off-site park, inland of the coastal zone boundary, as mitigation for the open space variance. Therefore, the Commission finds that the appeals raise a substantial issue.

The question of whether the impacts to wildlife habitat and the adjacent tidal waters and wetlands (i.e., water quality, increased traffic and lighting impacts) have been adequately identified and mitigated is a substantial issue. The appeals challenge the adequacy of the biological surveys conducted on the project site, and assert that the City erred in its determination that no wetland indicators (water, hydrophytes or hydric soils) exist on the site since a jurisdictional wetland delineation was not required or conducted (Exhibit #7). The Los Cerritos Wetlands are located on the west side of Studebaker Road. Water quality may suffer if abandoned oil pipes are not recovered and removed from the site, or if other undiscovered sources of pollution are not identified and properly remediated. Therefore, the Commission will review the project in order to identify impacts to wildlife habitat on the site and in the adjacent tidal waters and wetlands.

The question of whether the traffic generated by the City-approved development will adversely impact coastal access by causing an increase in traffic and congestion, or by eliminating existing bicycle routes, is a substantial issue. The peak volume of traffic generated by the proposed project would occur on weekends and would correspond with the peak recreational traffic that uses the nearby freeway interchanges (I-405, I-605, Route 22), Studebaker Road, Pacific Coast Highway and Second Street to access the beaches and marinas in Long Beach and Seal Beach (Exhibit #2). The City's coastal development permit findings for public access fail to acknowledge the project's potential impacts. Therefore, the Commission will review the project in order to determine whether the project's impacts to public access can be adequately mitigated.

Applying the five factors listed in the prior section further clarifies that the appeal raises a "substantial" issue with respect to the grounds on which the appeal has been filed. The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP and public access policies of the Coastal Act. The findings for the City's approval of Local Coastal Development Permit No. 0308-11 are found on Page 2 of Exhibit #5 of this report. The City's findings do not provide an adequate degree of factual support for its conclusion that the approved development conforms with the certified LCP and public access policies of the Coastal Act. The findings incorrectly state that the proposed development conforms to the requirements of the LCP when, in fact, it does not for the reasons stated above. The City's findings also do not acknowledge or attempt to mitigate the proposed project's adverse impacts to coastal resources, although the EIR certified for the project includes several mitigation measures which were added as conditions to the coastal development permit.

The second factor is the scope of the development approved by the local government. The approved development includes the subdivision of a 16.46-acre industrial site and construction of a commercial retail project, but the scope of the approved development is not entirely clear. The project description on Local Coastal Development Permit No. 0308-11 neglects to mention the demolition of the existing tank farm or the remediation of the toxic soils that exist on the site (Exhibit #5, p.1). The applicant stated its belief that the City would exempt from coastal development permit requirements the proposed demolition of the existing tank farm and the remediation of the toxic soils that exist on the site. Thus, a finding of substantial issue will help to clarify that the entire development, including the demolition of the existing tank farm and the remediation of the toxic soils, must obtain a coastal development permit.

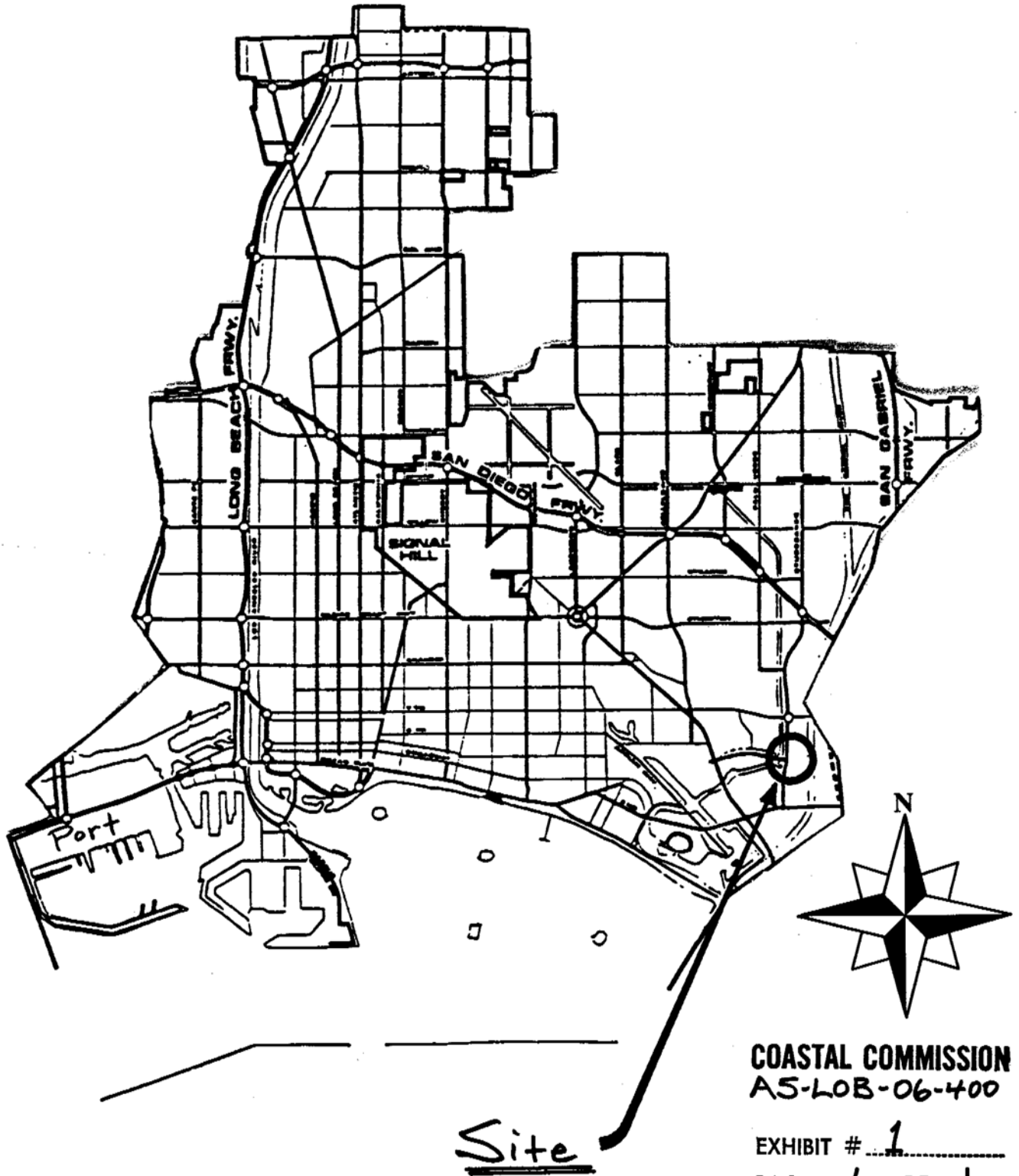
The third factor is the significance of the coastal resources affected by the decision. The proposed development is next to two tidal channels, the Los Cerritos Channel, the San Gabriel River estuary, and the Los Cerritos Wetlands. These natural habitat areas would be affected by the proposed commercial project, and the project site itself may also have coastal resources. The project site, with its potential for future coastal dependent industry, is also a coastal resource. Thus, the coastal resources affected are significant.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This factor is designed to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a LCP which conforms with Chapter 3 policies of the Coastal Act. The local coastal development permit authorizes a land use that is not consistent with the certified LCP. The approval of a land use that is not consistent with the certified plan for the area may result in unanticipated and cumulative impacts to the adjacent area (e.g. other tank farms, the traffic system, the Los Cerritos Wetlands and open spaces, etc.). The City's approval of a land use that is not consistent with the certified LCP may prejudice the future LCP decisions for the SEADIP area. Therefore, the Commission finds that the City approval sets a precedent that merits closer scrutiny by the Commission to ensure that the project will not prejudice the ability of the City to prepare an LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. The appeal raises a local and statewide issues relating to the protection of industrial lands and protection of wetlands.

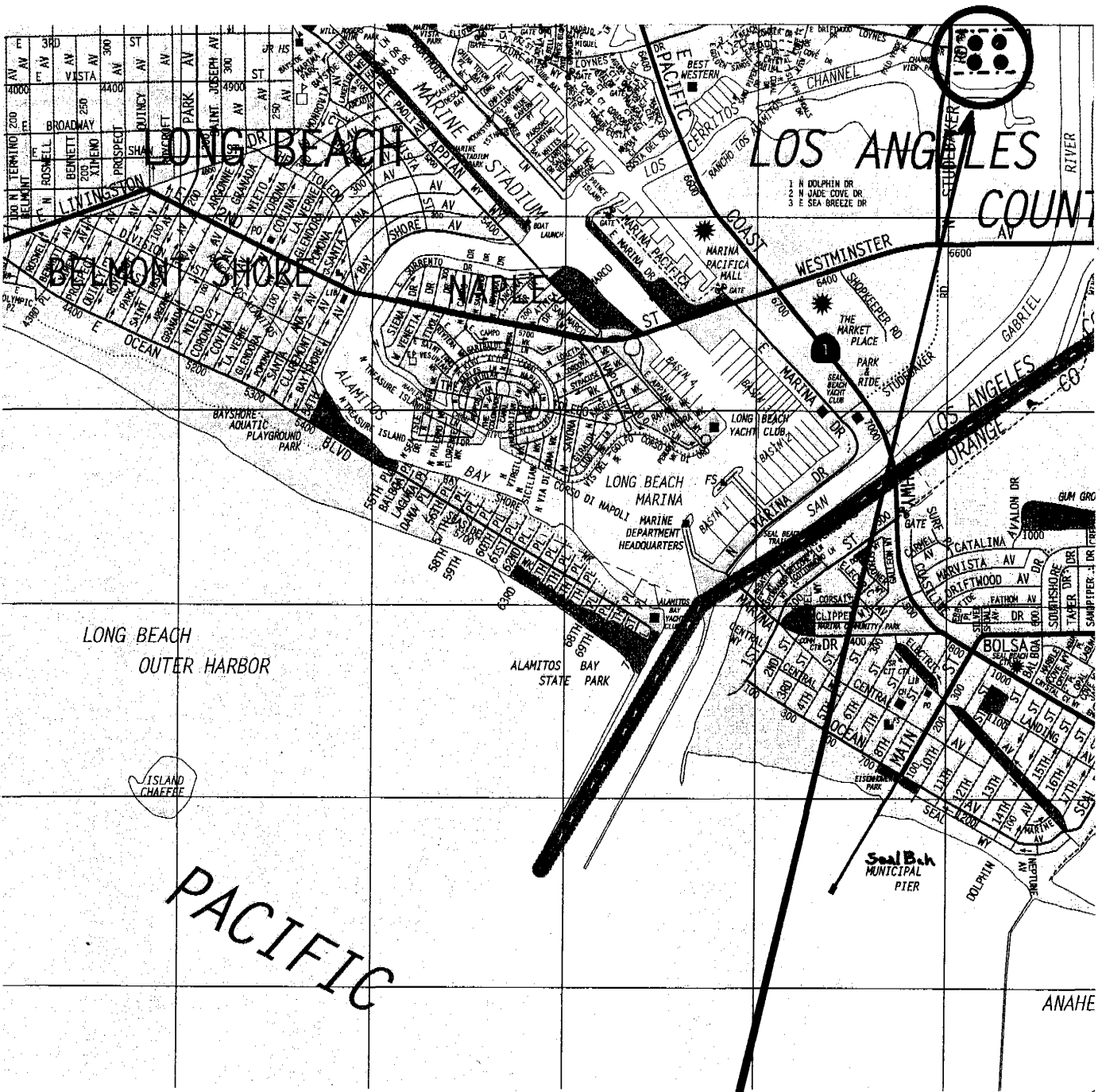
In conclusion, the Commission finds that the appeals raise **a substantial issue** for the following reasons: 1) the certified City of Long Beach Local Coastal Program (LCP) designates the project site for an industrial use, while the City approval allows a commercial land use; 2) approval of a land use that is not consistent with the certified LCP could result in unanticipated and cumulative impacts to the adjacent area and may prejudice future decisions for the area as the LCP is being updated; 3) the proposed development does not meet the LCP open space requirements (30% of the project area); 4) the proposed development could adversely affect wildlife, wetlands and the adjacent tidal waters; and, 5) the traffic generated by the proposed commercial development may adversely impact coastal access.

City of Long Beach



COASTAL COMMISSION
A5-LOB-06-400

EXHIBIT # 1
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Project Site: 400 Studebaker Road

**COASTAL COMMISSION
A5-LOB-06-400**

EXHIBIT # 2

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FIGURE 3.2

LSA



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FEET

SOURCE: EAGLE AERIAL (3/2004)

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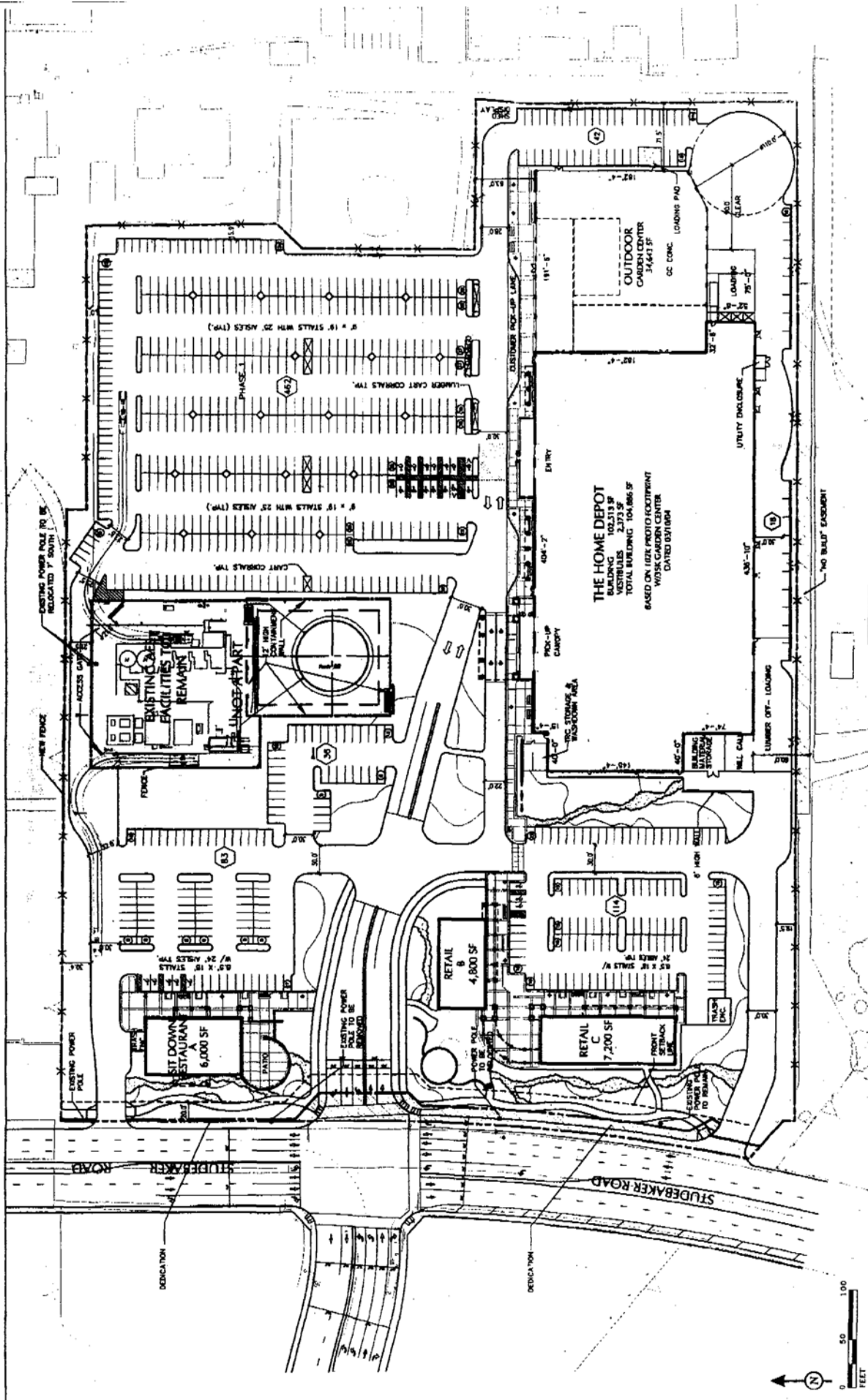
Legend



Project Boundary

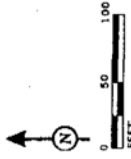
Home Depot East Long Beach
Aerial Photo

**Exhibit #3
Project Site
Existing Tank Farm**



Proposed Site Plan

LSA





CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • FAX (562)570-6068

NOTICE OF FINAL LOCAL ACTION

Case No.: 0308-11

Project Location: 400 Studebaker Road

Applicant: Greenberg Farrow
c/o Vasanthi Ramanathan
1920 Main Street, Suite 1150
Irvine, CA 92614

Permit(s) Requested: Site Plan Review
Conditional Use Permit
Tentative Map
Local Coastal Development Permit, Standards Variances

RECEIVED
South Coast Region

OCT 19 2006

CALIFORNIA
COASTAL COMMISSION

Project Description: Certification of Environmental Impact Report, adoption of a Resolution certifying the FEIR, adoption of a Resolution with a Statement of Overriding Considerations, Approval of Site Plan Review, Conditional Use Permit, Tentative Parcel Map No. 067384, Local Coastal Development Permit and two Standards Variances to construct a 140,000 square foot home improvement and garden center, a 6,000 square foot restaurant, and two retail/commercial buildings totaling 12,000 square feet, with 752 parking spaces; a subdivision of the project site in order to create a separate lot for above-ground storage tank(s); an exception from code requirements to allow three driveways that exceed the maximum allowable width; and an exception from requirements in PD-1 (Southeast Area Planned Development Improvement Plan) to provide less than thirty percent (30%) required open space.

Local action was taken by the: City Council on:
October 3, 2006

Decision: Conditionally Approved

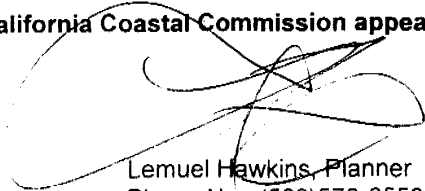
Local action is final on: October 3, 2006

This project is in the Coastal Zone and IS appealable to the Coastal Commission.

"If you challenge the action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or issues raised via written correspondence delivered to the (public entity conducting the hearing) at or prior to the public hearing."

See other side for City of Long Beach and California Coastal Commission appeal procedures and time limits.


Carolyn Bihr
Zoning Administrator


Lemuel Hawkins, Planner
Phone No.: (562)570-6553

Attachments

Council District: 3

COASTAL COMMISSION
AS-LOB-06-400

EXHIBIT # 5
PAGE 1 OF 26

LOCAL COASTAL DEVELOPMENT PERMIT FINDINGS

A. THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM INCLUDING BUT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING.

The proposed project is for the development of a retail-commercial center on a parcel of land that currently contains aboveground storage tanks. The proposal also includes the development of retail commercial and restaurant uses. The proposed development complies with the Certified Coastal Program. There are no residential uses proposed with this application.

B. THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT. THIS SECOND FINDING APPLIES ONLY TO DEVELOPMENT LOCATED SEAWARD OF THE NEAREST PUBLIC HIGHWAY TO THE SHORELINE.

The site is currently used for industrial purposes and is secured and inaccessible to the public. The proposed project is the development of a retail-commercial center; as such, access will be provided to the site. Primary access to the proposed project is from Studebaker and Loynes. Portions of these roadways are in the Coastal Zone, however, neither one of them provides direct access to the shoreline. In addition, the proposed project is not seaward of the nearest public highway (Pacific Coast Highway and 2nd Street) that provides access to the shoreline.

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**SITE PLAN REVIEW, CONITIONAL USE PERMIT, TENTATIVE MAP,
LOCAL COASTAL DEVELOPMENT PERMIT AND STANDARDS VARIANCE
CONDITIONS OF APPROVAL
CASE NO. 0308-11
October 3, 2006**

GENERAL CONDITIONS OF APPROVAL

1. The use permitted on the site, in addition to other uses permitted in Subarea 19 of the Southeast Area Development and Improvement Plan (SEADIP) Planned Development District (PD-1) shall be a 140,000 square foot home improvement and garden center, a 6,000 square foot restaurant, and two retail-commercial buildings totaling 12,000 square feet, with 752 parking spaces.
2. The code exceptions approved for this project are as follows:
 - a. To allow three driveways and curb cuts of sixty-eight feet (68'), thirty feet (30') and thirty feet (30') in width (instead of a maximum of twenty-four feet (24'))
 - b. To allow twenty-two percent (22%) of site area to be used as open space (instead of not less than thirty percent {30%}).
3. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of city officials, to verify compliance. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council.
4. This permit and all development rights hereunder shall terminate three years from the effective date (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date) of this permit unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the three year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
5. This permit shall be invalid if the owner(s) and applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgment Form* supplied by the Planning Bureau. This acknowledgment must be submitted within thirty (30) days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, twenty-one (21) days after the local final action date). Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes set forth in the conditions of approval to the satisfaction of the Zoning Administrator.

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6. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
7. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions, which are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.
8. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Planning and Building Department. These conditions must be printed on the site plan or a subsequent reference page.
9. The Director of Planning and Building is authorized to make minor modifications to the approved design plans or to any of the conditions of approval if such modifications shall not significantly change/alter the approved design/project and if no detrimental effects to neighboring properties are caused by said modifications. Any major modifications shall be reviewed by the Zoning Administrator or Planning Commission, respectively.
10. Site development, including landscaping, shall conform to the approved plans on file in the Department of Planning and Building. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Redevelopment and Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.
11. The occupant of the building agrees to contribute \$20,000 on an annual basis towards the repair, maintenance or reconstruction of Loynes Drive. The City shall collect this amount on an annual basis, with an invoice to Home Depot, or any other tenant that generates equivalent daily trips, so long as the building is occupied. These funds shall be used only for the maintenance, repair or reconstruction of Loynes Drive and no other purpose.
12. Prior to the issuance of a certificate of occupancy for any of the buildings, the applicant shall be responsible for providing for the replacement of the eight-inch (8") sewer line with a ten-inch (10") sewer line as described on page 4, 10 – 17 of the EIR to the satisfaction of the Director of Planning and Building.

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DESIGN/APPEARANCE

13. Prior to the issuance of a building permit, the applicant must depict all utility apparatus, such as, but not limited to, backflow devices and Edison transformers, on both the site plan and the landscape plan. The plans shall display an approval stamp or signature from the respective agency requiring such apparatus. These devices shall be located on private property and not be placed in required landscaped setbacks and shall be screened by landscaping or other screening method approved by the Director of Planning and Building.
14. Prior to the issuance of a building permit, the applicant must submit complete landscape and irrigation plans for the discretionary approval of the Director of Planning and Building. Such plans shall conform to municipal code Section 21.42 in particular plant and tree sizes and other provisions.
15. All landscaped areas shall be planted with drought tolerant plant materials. All landscaped areas shall be provided with water conserving automatic irrigation systems designed to provide complete and adequate coverage to sustain and promote healthy plant life. The irrigation system shall not cause water to spray or flow across a public sidewalk.
16. All landscaped areas must be maintained in a neat and healthy condition, including public parkways and street trees. Any dying or dead plant materials must be replaced with the minimum size and height plant(s) required by Chapter 21.42 (Landscaping) of the Zoning Regulations. At the discretion of city officials, a yearly inspection shall be conducted to verify that all irrigation systems are working properly and that the landscaping is in good healthy condition. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council.
17. The Developer shall provide for landscaping and irrigation system improvements within the public right-of-way along Studebaker Road, adjacent to the project site.
18. The Developer will be responsible for the following site plan improvements, prior to the issuance of building permits and to the satisfaction of the Director of Planning and Building:
 - a. Revise design of the home improvement center to provide meaningful articulation to break up the mass, including revised fenestration, at the south elevation.
 - b. Provide revised color palette to better reflect the proposed contemporary design.

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- c. Provide Sign Program for the entire complex.
 - d. Revise plaza landscape design to modify water feature and provide alternative landscape design which reinforces the concept of a neighborhood gathering place, including drought tolerant landscape features.
 - e. Provide additional landscaping on the east side of the existing tank facilities that are to remain.
 - f. Provide green building and sustainable design features described in Attachment 6.
19. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, fences and the perimeter of the site (including all public parkways).
 20. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
 21. Any graffiti found on site must be removed within twenty-four hours (24) of its appearance.
 22. All rooftop mechanical equipment shall be fully screened from public view. Said screening must be architecturally compatible with the building in terms of theme, materials, colors and textures. If the screening is not specifically designed into the building, a rooftop mechanical equipment plan must be submitted showing screening and must be approved by the Director of Planning and Building prior to the issuance of a building permit.
 23. Adequately sized trash enclosure(s) shall be designed and provided for this project as per Section 21.46.080 of the Long Beach Municipal Code. The designated trash area shall not abut a street or public walkway and shall be placed at an inconspicuous location on the lot.
 24. The final design of the driveways and ingress and egress into all parking areas on Studebaker Road shall be subject to the review and approval of the Director of Planning and Building and the Director of Public Works. The ingress, egress and adjacent areas shall provide pedestrian amenities where the driveways intersect the street such as enriched pavement, landscaping, decorative bollards or other appropriate street furniture to identify, protect and enhance the pedestrian pathway.

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25. Parcel 2 shall be enclosed on all sides by a solid decorative masonry wall. Landscaping shall be provided on the exterior of the enclosure as shown on approved landscaping plans.
26. A decorative fence consisting of ten feet (10') high wrought iron with masonry pilasters occurring at twenty-five foot (25') intervals shall be constructed on the perimeter of Parcel 1.

PERMITTING/CONSTRUCTION

27. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
28. Separate building permits are required for signs, fences, retaining walls, trash enclosures, flagpoles, pole-mounted yard lighting foundations and planters.
29. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
30. The applicant shall file a separate plan check submittal to the Long Beach Fire Department for their review and approval prior to the issuance of a building permit.
31. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed):
 - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
 - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
 - c. Sundays: not allowed

In accordance with the City of Long Beach's standards, no construction activities are permitted outside of these hours, and no construction is permitted on Sundays without a special work permit. At the time of plan check, prior to issuance of grading and building permits, the City of Long Beach Zoning Administrator shall verify that construction hour limitations are noted on building and grading plans.

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32. Prior to issuance of a building permit, the Developer shall enter into an easement agreement with the City to provide a meandering 5-foot wide sidewalk along the Studebaker Road frontage. Said easement shall specify that the property owner shall maintain the sidewalk, landscaping, and irrigation system within the street right-of-way and additional easement area to the satisfaction of the Director of Public Works and the Director of Planning and Building. All sidewalk improvements shall be constructed with minimum 3-inch concrete pavement.
33. Demolition and reconstruction of curb and gutter, driveways, sidewalks, wheelchair ramps, roadway and alley pavements, removal and relocation of utilities, traffic striping and signing, street tree removals and plantings in the public right-of-way, shall be performed under Public Works street improvement permit. Permits to perform work within the public right-of-way must be obtained from the Public Work Permit Section of the City of Long Beach Development Services Center, 4th Floor of City Hall, 333 West Ocean Boulevard, telephone (562) 570-7082 or 7084.
34. All work within the public right-of-way shall be performed by a contractor holding a valid State of California contractor's license and City of Long Beach Business License sufficient to qualify the contractor to do the work. The contractor shall have on file with the City Engineer Certification of General Liability Insurance and an endorsement evidencing minimum limits of required general liability insurance.
35. The Developer shall be responsible for the maintenance, repair and replacement of off-site improvements abutting the project boundary during construction of the on-site improvements until final inspection of the on-site improvements by the City. Any such off-site improvements found damaged by the construction of the on-site improvements shall be repaired or replaced by the Developer to the satisfaction of the Director of Public Works.
36. A lighting plan shall be designed to prevent light spillage in excess of that which has been referenced and analyzed in this EIR. A qualified lighting engineer/consultant to the city of Long Beach Department of Planning and Building shall verify that the plan calls for energy-efficient luminaries that control light energy and for exterior lighting to be directed downward and away from adjacent streets and adjoining land uses in a manner designed to minimize off-site spillage. Prior to issuance of building permits, the lighting plan shall be reviewed and approved by a City of Long Beach Director of Planning and Building, demonstrating that project lighting is consistent with the EIR. (mitigation measure)

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37. Prior to issuance of certificates of occupancy the applicant shall provide to the City of Long Beach Building Official shall verify that the lighting plan restricts operational hours as follows: 100 percent illumination from dusk to close of commercial activities; 50 percent illumination from the close of commercial activities until one hour after close time; and only security-level lighting from one hour after closure until dawn. (mitigation measure)
38. The project contractor shall comply with SCAQMD Rule 1166 with regard to the handling of potential VOC-contaminated soils during construction. Prior to issuance of building permits, the City of Long Beach Building Official shall verify that construction plans include a statement stipulating that the construction contractor shall be responsible for compliance with applicable SCAQMD Rules and Regulations. (mitigation measure)
39. The project contractor shall comply with regional rules that assist in reducing short-term air pollutant emissions. SCAQMD Rule 403 requires that fugitive dust be controlled with best-available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. In addition, SCAQMD Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. Applicable dust suppression techniques from Rule 403 are summarized below. The City of Long Beach Building Official shall ensure that notes are included on grading and construction plans and referenced in the Construction Contractor's Agreement stipulating that the construction contractor shall be responsible for compliance with SCAQMD Rules 402 and 403. (mitigation measure)

Applicable Rule 403 measures include the following requirements:

- Apply nontoxic chemical soil stabilizers according to manufacturers' specifications to all inactive construction areas (previously graded areas inactive for 10 days or more).
- Water active sites at least twice daily. (Locations where grading is to occur will be thoroughly watered prior to earthmoving.)
- All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard in accordance with the requirement of California Vehicle Code (CVC) Section 23114 (freeboard means vertical space between the top of the load and top of the trailer).
- Pave construction access roads at least 100 feet onto the site from the main road.

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- Traffic speeds on all unpaved roads shall be reduced to 15 mph or less.
 - Water grading and cover materials being transported.
 - Maintain grading and construction equipment in proper tune.
 - Schedule truck trips to avoid peak hours (7-9 a.m. and 4-6 p.m., weekdays).
 - Discontinue construction during stage II smog alerts (ozone more than or equal to 0.35 ppm.).
40. Prior to issuance of a building permit, the applicant shall provide to the City of Long Beach Building Official construction documents and the Construction Contractor's Agreement that require use of dust suppression measures in the SCAQMD CEQA Air Quality Handbook during grading and construction. The construction contractor shall be responsible for implementation of dust suppression measures. (mitigation measure)
- Revegetate disturbed areas as quickly as possible.
 - All excavating and grading operations shall be suspended when wind speeds (as instantaneous gusts) exceed 25 mph.
 - All streets shall be swept once per day if visible soil materials are carried to adjacent streets (recommended water sweepers with reclaimed water).
 - Install wheel washers where vehicles enter and exit unpaved roads onto paved roads, or wash trucks and any equipment leaving the site each trip.
 - All on-site roads shall be paved as soon as feasible, watered periodically, or chemically stabilized.
 - The area disturbed by clearing, grading, earthmoving, or excavation operations shall be minimized at all times.
41. The construction contractor shall select the construction equipment used on site based on low-emission factors and high-energy efficiency. Prior to issuance of grading and building permit, the contractor shall provide to the City of Long Beach Building Official that grading and construction plans include a statement that all construction equipment will be tuned and maintained in accordance with manufacturers' specifications. (mitigation measure)

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42. Prior to issuance of grading permits, the City of Long Beach Building Official shall verify that construction and grading plans include a statement that the construction contractor shall utilize electric- or diesel-powered equipment in lieu of gasoline-powered engines where feasible. (mitigation measure)
43. Prior to issuance of grading and building permits, the city of Long Beach Building Officials shall verify that grading and construction plans include a statement that work crews will shut off equipment when not in use. During smog season (May through October), the overall length of the construction period will be extended, thereby decreasing the size of the area prepared each day, to minimize vehicles and equipment operating at the same time. (mitigation measure)
44. Prior to issuance of grading permits, the City of Long Beach Building Officials shall verify that construction and grading plans include a statement stipulation that the construction contractor shall time construction activities so as to not interfere with peak-hour traffic and minimize obstruction of through-traffic lanes adjacent to the site; if necessary, a flag person shall be retained to maintain safety adjacent to existing roadways. (mitigation measure)
45. Prior to issuance of grading permits, the City of Long Beach Building Official shall verify that construction and grading plans include a statement stipulating that the construction contractor shall support and encourage ridesharing and transit incentives for the construction crew. (mitigation measure)
46. The City of Long Beach shall ensure that the project complies with Title 24 of the California Code of Regulations established by the Energy Commission regarding energy conservation standards. During Plan Check, the City of Long Beach Building Official shall verify that the following measures are incorporated into project building plans: (mitigation measure)
 - Trees will be planted to provide shade and shadow to buildings.
 - Energy-efficient parking lot lights, such as low-pressure sodium or metal halide, will be used.
 - Solar or low-emission water heaters shall be used with combined space/water heater units where feasible.
 - Double-paned glass or window treatment for energy conservation shall be used all exterior windows where feasible.
 - Buildings shall be oriented north/south where feasible

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47. Prior to commencement of demolition or grading activities, the construction contractor shall install protective barriers (e.g., snow or silt fencing) between the project site and the adjacent water supply channels and along both banks of the Los Cerritos Channel north of the Loynes Drive Bridge. Prior to issuance of demolition permits, the City of Long Beach Environmental Officer shall verify that a qualified biologist has been retained by the project applicant to supervise the installation of the barriers and ensure that the barriers are installed in the proper location and are clearly visible to equipment operators and other construction personnel. The barriers shall be a bright color (e.g., fluorescent orange) to ensure clear visibility. No construction activity shall occur beyond the limits marked by the barriers, and the construction contractor shall ensure that no construction debris, trash, or other material passes beyond the barriers. The City-retained biologist shall monitor the site on a weekly basis throughout project construction and file written reports on the condition of the barriers to the City of Long Beach Environmental Officer on a monthly basis. The cost of the biologist shall be reimbursed by the applicant. (mitigation measure)
48. In Conjunction with the submittal of applications for rough grading permits for the proposed project, the City of Long Beach Director of Planning and Building shall verify that a paleontologist who is listed on the County of Los Angeles list of certified paleontologists has been retained by the applicant and will be on site during all rough grading and other significant ground-disturbing activities paleontologically sensitive sediments. In the event that fossil resources are noted within the project area, construction in the vicinity of the find will be halted until the discovery can be evaluated. If the discovery is determined to be important, the project proponent shall initiate a paleontological recovery program to collect the fossil specimens and all relevant lithologic and locality information about the specimen. This may include the collection and the washing and picking of up to 6,000 pounds per locality of mass samples to recover small invertebrate and vertebrate fossils. The results of the fossil recovery program will be documented in a technical report that will include an itemized inventory of specimens. Specimens recovered during grading activity shall be prepared to a point of identification and permanent preservation. All recovered fossils shall be placed within a museum repository that is capable of accepting the recovered fossils and that has a permanent retrievable storage. The project proponent shall be responsible for all costs associated with the recovery program and report preparation. (mitigation measure)

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49. If human remains are encountered, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made determination of the origin and disposition of the remains pursuant to public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within twenty-four (24) hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of the human remains and items associated with Native American Burials. (mitigation measure)
50. In conjunction with the submittal of applications for rough grading permits, the Director, Department of Planning and Building, shall verify that a Los Angeles County certified archaeologist has been retained by the applicant and shall be present at the pregrading conference and shall establish procedures for temporarily halting or redirecting work if unrecorded archaeological resources are discovered during grading to permit the sampling, identification, and evaluation of archaeological materials as appropriate. The cultural resource management program will include resource monitoring during project grading of archaeologically sensitive sediments to ensure that unidentified cultural resources are not affected by the proposed undertaking. If archaeological materials are identified during construction, standard professional archaeological practices shall be initiated to characterize the resources and mitigate any impacts to those resources. Included within this program will be the development of a curation agreement for the permanent care of materials collected from the project. This agreement would be negotiated with a suitable repository. (mitigation measure)
51. Prior to issuance of building permits, the applicant shall obtain approval of the City of Long Beach Building Officials (or designee) and the City of Long Beach Director of Public Works of final design plans to ensure that earthquake-resistant design has been incorporated into final site drawings in accordance with the most current California Building Code and the recommended seismic design parameters of the Structural Engineers Association of California. Ultimate site seismic design acceleration shall be determined by the project structural engineer during the project design phase. (mitigation measure)

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52. A detailed geotechnical investigation of the site shall be conducted prior to submittal of the plan check application and shall be submitted with the grading or plan check application. This investigation shall evaluate liquefaction potential, lateral spreading hazards, and soil expansiveness and shall determine appropriate design consistent with the most current California Building Code. A corrosion engineer shall design measures for corrosion protection. Site-specific final design evaluation and grading plan review shall be performed by the project geotechnical consultant prior to the start of grading to verify that recommendations developed during the geotechnical design process are appropriately incorporated in the project plan. Design and grading construction shall be performed in accordance with the requirements of California Building Code applicable at the time of grading, appropriate local grading regulations, and the recommendation of the project geotechnical consultant as summarized in a final report, subject to review by the City of Long Beach Building Official prior to issuance of grading permits. (mitigation measure)
53. Site preparation (removal of existing facilities, excavation, subgrade preparation, placement and compaction of fill, foundation preparation, floor slab preparation, positive surface gradient preparation, and pavement of other areas) shall be conducted consistent with the recommendations of the design-level detailed geotechnical investigation summarized in a final report, subject to review and approval by a City of Long Beach Building Official prior to issuance of grading permits. The project geotechnical engineer shall observe all excavations, subgrade preparation, and fill activities and shall conduct soils testing as necessary, consistent with local, State, and federal regulations. (mitigation measure)
54. Prior to project approval, the project applicant shall enter into a Consent Agreement with DTSC for remediation of the project site consistent with the Scope of Work for an RCRA RFI. (mitigation measure)
55. Prior to issuance of a grading permit, the project applicant shall provide evidence to the City that DTSC has issued a closure status for the project site and that no land use restrictions would prevent the site from being used for commercial/retail purposes. (mitigation measure)

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56. Prior to issuance of any demolition permits, the project applicant shall submit an application to the City of Long Beach Fire Department for approval to remove Tanks Nos. 1-4 and 6 and associated pipeline conveyance systems from the property. The applications package shall include documentation of approval of the removal process by AES Alamitos and Pacific Energy. The City of Long Beach Fire Department shall review the application for compliance with local, state, and federal requirements with tank-handling procedures including sampling and disposal of tank contents, sampling of subsurface soils, and transport and disposal of tanks and soils/liquids. The City of Long Beach Fire Department and DTSC shall oversee and monitor the operation in accordance with local, State, and federal requirements. (mitigation measure)

57. Prior to issuance of any demolition permits, predemolition surveys for ACMs and LBPs (including sampling and analysis of all suspected building materials) and inspections for mercury-containing fixtures, PCB-containing electrical features shall be performed. All inspections, surveys, and analyses shall be performed by appropriately licensed and qualified individuals in accordance with applicable regulations (i.e.: ASTM E 1527-00, and 40 CFR, Subchapter R, Toxic Substances Control Act [TSCA], Part 716). All identified ACMs, LBPs, and PCB-containing electrical fixtures shall be removed, handled, and properly disposed of by appropriately licensed contractors according to all applicable regulations during demolition of structures. (40 CFR, Subchapter R, TSCA, Parts 745, 761, and 763). Air monitoring shall be completed by appropriately licensed and qualified individuals in accordance with applicable regulations both to ensure adherence to applicable regulations (e.g., SCAQMD) and to provide safety to workers and the adjacent community. The project applicant shall provide documentation (e.g., all required waste manifests, sampling, and air monitoring analytical results) to the City of Long Beach Health Department showing that abatement of any ACMs, LBPs, or mercury-containing fixtures or PCB-containing electrical fixtures identified in these structures has been completed in full compliance with all applicable regulations and approved by the appropriate regulatory agency(ies) (40 CFR, Subchapter R, TSCA, Parts 716, 745, 761, 763, and 795 and CCR Title 8, Article 2.6). An Operating & Maintenance Plan (O&M) shall be prepared for any ACM, LBP, or PCB-containing fixtures to remain in place and would be reviewed and approved by the City Health Department. (mitigation measure)

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58. Prior to issuance of any demolition permits, the project applicant shall submit an Emergency Action Plan to the City of Long Beach Fire Department for review and approval. The plan shall include documentation of review and approval by Pacific Energy. The Plan shall be consistent with local, state, and federal regulations and shall provide detailed procedures in the event of a hazardous substance leak or spill from on-site facilities, including Tank No. 5 and associated equipment. (mitigation measure)
59. Prior to issuance of a grading permit, the project site shall be remediated in accordance with the scope of work for an RCRA RFI. DTSC shall oversee and approve all phases of the investigation including the Current Conditions Report, RCRA RFI Work plan, RCRA RFI Report, Health and Safety Plan. Soils and groundwater shall be tested for VOCs, SVOCs, PAHs, metals, asbestos, and PCBs in accordance with the DTSC-approved work plan. Soil and groundwater removal, transport, and disposal shall be conducted in accordance with local, State and federal regulations; documentation shall be provided to DTSC. All remediation activity shall be completed to the satisfaction of DTSC, as well as RWQCB and CUPA as applicable. (mitigation measure)
60. After rough grading and prior to issuance of a building permit or utility installation, a detailed methane soil gas investigation work plan shall be prepared by the project applicant and submitted to the City of Long Beach Fire Department for review and approval. The methane soil gas investigation shall be performed in accordance with local industry standards. The results shall be presented in a formal report that includes recommendations to mitigate potential hazards from methane, if required. The report shall be reviewed and approved by the City of Long Beach Fire Department. Based on the results of this detailed investigation, additional mitigation design may be necessary, including providing conventional vapor barriers and venting systems beneath buildings and confined spaces. Methane mitigation design shall be approved by the City of Long Beach Fire Department. (mitigation measure)
61. Prior to issuance of a grading permit, the project applicant shall submit a Soil and Air Monitoring Program and associated Health and Safety Plan to the City of Long Beach Planning and Building Department and the SCAQMD for review and approval. The program shall be consistent with local, state, and federal regulations and shall encompass all soil-disturbance activities. The Health and Safety Plan shall include the following components: (mitigation measure)
 - A summary of all potential risks to construction workers, monitoring programs, maximum exposure limits for all site chemicals, and emergency procedure.

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- The identification of a site health and safety officer.
 - Methods of contact, phone number, office location, and responsibilities of the site health and safety officer.
 - Specification that the site health and safety officer will be contacted immediately by the construction contractor should any potentially toxic chemical be detected above the exposure limits or if evidence of soil contamination is encountered during site preparation and construction.
 - Specification that DTSC will be notified if evidence of soil contamination is encountered.
 - Specification that DTSC will be notified if contaminated groundwater is encountered during excavation activities.
 - Specification that an on-site monitor will be present to perform monitoring and/or soil and air sampling during grading, trenching, or cut or fill operations.
 - The Health and Safety Plan shall be provided to all contractors on site. The Health and Safety Plan is required to be amended as needed if different site conditions are encountered by the site health and safety officer.
62. Prior to issuance of a certificate of occupancy, the project applicant shall submit a Business Plan including a Hazardous Materials Release Response Plan and Inventory to the Long Beach CUPA for approval and permit. The Business Plan shall include a description of emergency response procedures and coordination with AGS with respect to alarms and public address systems. (mitigation measure)
63. Prior to issuance of Certificates of Occupancy, the City of Long Beach Health Department and the Long Beach CUPA shall review the existing Business Emergency Plan, Hazardous Materials Release Response Plan and Inventory, and the Risk Management Plan for the AES Alamitos Plant and shall determine whether additional measures/revisions are necessary based on proposed project implementation, consistent with the California Health and Safety Code Section 25500, et seq. The City of Long Beach Police Department shall review the plans to determine whether security for the plant, tanks, and distribution system is in compliance with pertinent regulations. (mitigation measure)

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64. Prior to issuance of a certificate of occupancy, the project applicant shall submit an Emergency Response and Evacuation Employee Training Program to the Long Beach CUPA for review and approval. The business owner shall conduct drills as required by CUPA and shall submit training documentation as part of the annual review of the Business Plan. (mitigation measure)
65. Prior to the issuance of a building permit, the applicant shall demonstrate to the satisfaction of the Director of Planning and Building that all best efforts have been undertaken to achieve LEED certification for the retail-commercial center project area.
66. Prior to issuance of certificates of occupancy, the applicant shall submit the updated Hazardous Materials Release Response Plan and Inventory for the Pacific Energy tanks and distribution system to the Long Beach CUPA for review. The CUPA shall determine whether revisions are necessary due to proposed project implementation. The City of Long Beach Fire and Police Department shall review and approve the proposed project plans, including the pipeline relocation for adequate emergency access and egress procedures. (mitigation measures)
67. The grading plans shall include features meeting the applicable construction activity BMPs and erosion and sediment control BMPs published in the *California Stormwater BMP Handbook – Construction Activity* or equivalent. The construction contractor shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the City that includes the BMP types listed in the handbook or equivalent. The SWPPP shall be prepared by a civil or environmental engineer and will be reviewed and approved by the City Building Official prior to the issuance of any grading or building permits. The SWPPP shall reduce the discharge of pollutants to the maximum extent practicable using BMPs, control techniques and systems, design and engineering methods, and such other provisions as appropriate. A copy of the SWPPP shall be kept at the project site.

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The construction contractor shall be responsible for performing and documenting the application of BMPs identified in the SWPPP. The construction contractor shall inspect BMP facilities before and after every rainfall event predicted to produce observable runoff and at twenty-four (24) hour intervals during extended rainfall events, except on days when no ongoing site activity takes place. Prestorm activities will include inspection of the major storm drain grate inlets and examination of other on-site surface flow channels and swales, including the removal of any debris that block the flow path. Poststorm activities will include inspection of the grate inlets for evidence of unpermitted discharges. The construction contractor shall implement corrective actions specified by the City of Long Beach Building Official, as necessary, at the direction of the City of Long Beach Director of Planning and Building. Inspection records and compliance certification reports shall be submitted to the City of Long Beach Director of Planning and Building on a monthly basis and shall be maintained for a period of three years. Inspections shall be scheduled monthly during the dry season and weekly during the wet season for the duration of project construction or until all lots and common areas are landscaped. (mitigation measure)

68. During demolition, grading and construction, the construction contractor shall ensure that the project complies with the requirements of the State General Construction Activity NPDES Permit. Prior to issuance of demolition and grading permits, the construction contractor shall demonstrate to the City of Long Beach that coverage has been obtained under the State General Construction Activity NPDES Permit by providing a copy of the NOI submitted to the SWRCB and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) number or other proof of filing to the City of Long Beach Building Official. (mitigation measure)
69. Prior to commencement of grading activities, the construction contractor shall determine whether dewatering of groundwater will be necessary during construction of the project. Any dewatering will require compliance with the State General Permit for discharges to land with a low threat to water quality or an individual permit from the Los Angeles RWQCB, consistent with NPDES requirements. Once it receives and reviews the NOI, the RWQCB will decide which permit is applicable and whether sampling is required. A copy of the permit shall be kept at the project site, available for City and/or RWQCB review upon request. (mitigation measure)

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70. Prior issuance of a building permit the applicant shall provide a project SUSMP to the City of Long Beach Director of Planning and Building for review and approval. The project SUSMP shall identify all of the nonstructural and structural BMPs that will be implemented as part of the project in order to reduce impacts to water quality to the maximum extent practicable by addressing typical land use pollutants and pollutants that have impaired Los Cerritos Channel and Reach I of the San Gabriel River. (mitigation measure)
71. Prior to issuance of a building permit, the applicant shall provide a plan to ensure on going maintenance for permanent BMPs to the City of Long Beach Director of Planning and Building for review and approval. This plan shall include a statement from the applicant accepting responsibility for all Structural and Treatment Control BMP maintenance until the time the property is transferred. All future transfers of the property to a private or public owner shall have conditions requiring the recipient to assume responsibility for the maintenance of any structural or Treatment Control BMP. The condition of transfer shall include a provision requiring the property owner to conduct a maintenance inspection at least once a year and retain proof of inspection. In addition, educational materials indicating locations of storm water facilities and how maintenance can be performed shall accompany first deed transfers. (mitigation measure)
72. Prior to issuance of a building permit, the applicant shall provide a final Hydrology Plan to the City of Long Beach Director of Planning and Building-City Engineer for review and approval. The Hydrology Plan shall include any on-site structures or modifications of existing drainage facilities necessary to accommodate increased runoff resulting from the proposed project and shall indicate project contributions to the regional storm water drainage system. The Hydrology Plan shall show all structural BMPs, consistent with the project SUSMP. (mitigation measure)
73. Prior to issuance of a building or grading permit, the City of Long Beach Zoning Administrator shall verify that project plans include a six-foot (6') concrete block or Plexiglass wall between Studebaker Road and any project outdoor eating areas (adjacent to Studebaker Road). (mitigation measure)

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74. A Solid Waste Management Plan for the proposed project shall be developed and submitted to the City of Long Beach Environmental Services Bureau for review and approval prior to issuance of grading permits. The plan shall identify methods to promote recycling and reuse of construction materials as well as safe disposal consistent with the policies and programs outlined by the City of Long Beach. The plan shall identify methods of incorporating source reduction and recycling techniques into project construction and operation in compliance with State and local requirements such as those described in Chapter 14 of the California code of Regulations and AB 939. (mitigation measure)
75. Prior to issuance of building permits, the City of Long Beach Director of Planning and Building shall verify that adequate storage space for the collection and loading of recyclable materials has been included in the design of buildings as well as waste collection points throughout the project site to encourage recycling. (mitigation measure)
76. The project applicant shall submit a Security Plan for the review and approval of the City of Long Beach Chief of Police prior to the issuance of any building permits. The Security Plan shall incorporate CPTED principles and other crime-prevention features that shall include, but not be limited to, the following: (mitigation measure)
 - Interior and exterior security lighting.
 - Alarm systems.
 - Locking doors for all employee locations.
 - Use of vines and other landscaping to discourage graffiti and unauthorized access.
 - Bonded security guards.
 - "No Loitering" signs posted at various locations throughout the project site.
 - Surveillance cameras for each business and all on-site parking areas.
 - Surveillance cameras located on-site that are capable of thoroughly monitoring Channel View Park, the Vista Street/Loynes Drive intersection, and the Vista/Silvera intersection.

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- All surveillance cameras shall continuously monitor all on-site and off-site locations on a twenty-four (24)-hour basis, and all surveillance camera video recording equipment shall have a minimum continuous two-week capacity to the satisfaction of the City of Long Beach Chief of Police. The City of Long Beach Director of Planning and Building shall verify inclusion of all required physical public safety improvements prior to issuance of any building permits. All physical requirements in the approved Security Plan shall be installed and fully operational prior to issuance of any Certificate of Occupancy.
77. Prior to the issuance of a grading permit, the project applicant shall, under the direction of the City of Long Beach Traffic Engineer, design and implement a construction area Traffic Management Plan. The plan shall be designed by a registered Traffic Engineer and shall address traffic control for any street closure, detour, or other disruption to traffic circulation and public transit routes. The plan shall identify the routes that construction vehicles will use to access the site, the hours of construction traffic, traffic controls and detours, off-site vehicle staging areas, and parking areas for the project. The plan shall also require project contractors to keep all haul routes clean and free of debris including but not limited to gravel and dirt. (mitigation measure)
78. **Studebaker Road/2nd Street.** Prior to issuance of any Certificates of Occupancy, the applicant, to the satisfaction of the City of Long Beach Director of Public Works, shall convert the existing westbound right-turn lane into a through lane and shall construct an exclusive westbound right-turn lane with a raised island that allows a "free right turn" from westbound 2nd Street to northbound Studebaker Road into the newly striped third through lane, with reimbursement if possible, according to the Boeing Specific Plan's fair-share commitment. (mitigation measure)
79. **Studebaker Road/Loynes Drive.** Prior to issuance of any certificates of occupancy, the applicant, to the satisfaction of the City of Long Beach Director of Public Works, shall complete the following: (mitigation measure)
- Provide one westbound left-turn lane, one westbound through lane, and one westbound right-turn lane at the project driveway at the Studebaker Road/Loynes Drive intersection and two receiving lanes into the project site. In addition, a northbound right-turn lane and a southbound left-turn lane shall be constructed. The inside eastbound right-turn lane shall be converted to an eastbound through lane for vehicles entering the project site.

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- Change the traffic signal phasing for the northbound and southbound left-turn movements at Studebaker Road/Loynes Drive to protected-permissive turn movements.
 - Restripe northbound and southbound Studebaker Road (36 feet wide) between 2nd Street and the SR-22 eastbound ramps to provide three (3) (twelve-foot (12)-wide) through lanes. The third northbound through lane will terminate at the northbound right-turn lane at the SR-22 eastbound ramps. The third southbound through lane will terminate at the 2nd Street intersection. Any encroachment into State right-of-way will require review and approval by Caltrans.
80. Prior to issuance of any Certificates of Occupancy, the applicant, in conjunction with and upon approval by Caltrans and the City Public Works Director, shall install traffic signal interconnect along Studebaker Road from 2nd Street to the SR-22 westbound ramp signal. This will allow vehicles from 2nd Street to have progressive flow to the freeway on-ramp on Studebaker Road. (mitigation measure)
81. Prior to issuance of any Certificates of Occupancy, the applicant, in conjunction with an upon approval by Caltrans and the City Public Works Director, shall develop and implement new traffic signal coordination timing for Studebaker Road for both weekday and weekend traffic conditions. This will provide signal coordination utilizing the new interconnect described above. (mitigation measure)
82. Prior to issuance of any Certificates of Occupancy, the applicant, in conjunction with and upon approval by Caltrans and the City Public Work Director, shall develop and implement (with Caltrans) new traffic signal coordination timing along 2nd Street from Marina Drive to Studebaker Road using existing interconnects. This should reduce delay and queuing at PCH/2nd Street. (mitigation measure)
83. Prior to issuance of any Certificates of Occupancy, the applicant, in conjunction with and upon approval by Caltrans and the City Public Works Director, shall develop and implement (with Caltrans) new coordination timing along PCH between Studebaker Road and 7th Street for both weekday and weekend traffic conditions. (mitigation measure)
84. Prior to issuance of any Certificates of Occupancy, the applicant shall reconstruct the two (2) traffic signals at Studebaker Road and SR-22/7th Street ramps in accordance with current traffic signal design standards, subject to the approval of the City Traffic Engineer and Caltrans. (mitigation measure)

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85. Prior to issuance of any Certificates of Occupancy, the applicant shall upgrade all eight-inch (8") traffic signal indications to twelve-inch (12") LED indications for the five intersections along 7th Street between and including East Campus Drive and Pacific Coast Highway. (mitigation measure)
86. The operator must clean the parking and landscaping areas of trash debris on a daily basis. Failure to do so shall be grounds for permit revocation. If loitering problems develop, the Director of Planning and Building may require additional preventative measures such as but not limited to, additional lighting or private security guards. (mitigation measure)
87. Unless approved by the Director of Public Works, easements shall not be granted to third parties within areas proposed to be granted, dedicated, or offered for dedication to the City of Long Beach for public streets, alleys, utility or other public purposes until after the final map is filed with the County Recorder. If easements are granted after the date of Tentative Map approval and prior to Final Map recordation, a notice of subordination shall be executed by the third-party easement holder prior to the filing of the final map. (mitigation measure)
88. The applicant shall defend, indemnify, and hold harmless the City of Long Beach, its agents, officers, and employees from any claim, action, or proceeding against the City of Long Beach or its agents, officers, or employees brought to attack, set aside, void, or annul an approval of the City of Long Beach, its advisory agencies, commissions, or legislative body concerning this project. The City of Long Beach will promptly notify the applicant of any such claim, action, or proceeding against the City of Long Beach and will cooperate fully in the defense. If the City of Long Beach fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Long Beach. (mitigation measure)
89. The Developer shall submit and obtain approval of the required engineering and street improvement plans to the Department of Public Works prior to issuance of a building permit.
90. All unused driveways shall be removed and replaced with full-height curb and gutter to the satisfaction of the Director of Public Works. The size and configuration of all proposed driveways shall be subject to review and approval of the Director of Public Works.

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91. After completion of the required off-site improvements, the Developer or project representative shall contact Jorge Magaña, Civil Engineering Associate, at (562) 570-6678 to initiate the process of clearing all Public Works holds attached to the development project.
92. The project shall comply with the requirements of Chapter 21.64 of the Long Beach Municipal Code for Transportation Demand and Trip Reduction. A plan demonstrating compliance with these requirements shall be submitted for review and approval by the Director of Planning and Building prior to the issuance of a building permit.
93. To ensure compliance with the MBTA and the U. S. Fish and Game Code, the City conditions the project applicants to retain a qualified biologist to survey project areas for nesting migratory birds where vegetation removal is to occur between January 1 and August 15. The biologist is required to survey the area no more than thirty (30)-days prior to the beginning of construction and to monitor the area for active nests during the initial clearing and grubbing procedures. In the event of discovery of active nests in an area to be cleared, protective measures are taken to avoid any impacts to the nests until the young have fledged and nesting activity is completed. Since a burrowing owl was previously observed on the site, the City will require preconstruction surveys according to protocol established by the California burrowing Owl Consortium.
94. The "7th Street property" shall be improved by the applicant with landscaping and hardscape generally as shown on preliminary landscaping plan L-1 dated March 17, 2006. Improvements shall be installed prior to issuance of the first Certificate of Occupancy for the site.
95. The bikeway and pedestrian walkway layout of the "7th Street Property" shall be designed to the satisfaction of the Director of Parks, Recreation, and Marine and the City Traffic Engineer.
96. Final detailed landscaping and irrigation plans shall be submitted for the review and approval of the Director of Park, Recreation, and Marine, and the Director of Planning and Building, and shall include drought-tolerant plant materials, hardscape, gateway signage visible from vehicular traffic on 7th Street, a minimum of four (4) benches, entry elements such as gates or bollards, and sufficient trees to screen the school property from 7th Street.
97. The developer shall obtain a Coastal Development Permit from the California Coastal Commission for construction of the proposed sewer pipe attached to the Loynes Drive Bridge.

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98. A new fence designed to CALTRANS standards shall be installed to replace the existing deteriorated fence, to the satisfaction of the Director of Parks, Recreation, and Marine.
99. The applicant shall deed the "7th Street property" to the City of Long Beach for use as a public park, and the property shall be dedicated by the City for park purposes.
100. The applicant shall maintain the improvements until such time as the "7th Street property" is deeded to the City, and in any case, no less than ninety (90) days following completion of improvements to allow a plant establishment period.
101. The applicant shall obtain approval from CALTRANS and the Los Angeles County Flood Control District for all proposed improvements, including maintenance as applicable.

BUSINESS OPERATION

102. Hours of Operation for the Home Improvement Center are as follows: 5 a.m. to 11:00 p.m. Monday through Friday, 6 a.m. to 10:00 p.m. on Saturday, and 7:00 a.m. to 10:00 p.m. on Sunday.
103. Prior to issuance of a certificate of occupancy, a physical cart containment system shall be installed to the satisfaction of the Director of Planning and Building. Such system shall be in conformance with Ordinance 06-0013, including any amendments.
104. All required on-site parking shall be accessible and available during the hours any use on the site is open for business. Parking spaces or drive isles shall not be blocked off or reduced as a result of the installation of cart stations, outdoor displays, or other activities or improvements occurring during business hours.
105. Outdoor display of merchandise is prohibited.
106. The use of Loynes Drive by delivery vehicles in excess of three (3) tons, which are related to any of the businesses on this site, is prohibited.
107. The applicant will, to the satisfaction of the Director of Planning and Building, provide a fair share contribution to the restoration of the Los Cerritos Wetlands within one year of the opening of the home improvement and garden center store provided that a special improvement district or other legal mechanisms is established or dedicated to the restoration of the Los Cerritos Wetlands.

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Grounds for Appeals

EXHIBITS #6-16

Appellants

Rena Akers (Exhibit #6)

Heather Altman (Exhibit #7)

Tim Anderson, Janice Dahl & Mary Parsell (Exhibit #8)

Ann Cantrell (Exhibit #9)

Melinda Cotton (Exhibit #10)

Doug Drummond & Thomas Marchese (Exhibit #11)

Charles W. Legeman (Exhibit #12)

Mary Beth Mashburn (Exhibit #13)

Jeff Miller (Exhibit #14)

Dean Richardson (Exhibit #15)

Mary Suttie & Dave Robertson (Exhibit #16)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
 - State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
 - This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.
1. this development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the coastal act.
 2. the approved project is not industrial and violates CDIP re, heavy commercial
 3. findings do not adequately address the impact of the project on the Los Cerritos Wetlands.
 4. Any development provide a minimum of thirty perscent of the site be developed and maintained as usable open space. The developer has provided some of the open space away from the site.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

COASTAL COMMISSION
A5-LOB-06-400

EXHIBIT # 6
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

A. The Project does not comply with SEADIP PD-1 provision A.4, "A minimum of thirty percent of the site shall be developed and maintained as usable open space." The proposed Project incorporates approximately 26.6% total on- and off-site usable open space.

B. The Project does not comply with SEADIP PD-1 provision A.5, "The maximum height of buildings shall be 30 feet for residential and 35 feet for non-residential uses, unless otherwise provided herein." In the 105th minute of the City Council meeting on October 3, 2006, attorney Doug Otto speaking on behalf of the proposed development indicated that the "entrance to the store will be fronted by 40 feet of glass." The applicant has not requested a variance for exception to this building height restriction.

C. The Project does not comply with SEADIP PD-1 provision A.14, "No additional curb cuts shall be permitted on Pacific Coast Highway, Westminster Avenue, Studebaker Road, or Seventh Street, unless it can be shown that inadequate access exists from local streets or unless specifically permitted by Subarea regulations provided herein." The Project includes 3 total curb cuts (66-foot, 35-foot, and 30-foot) along Studebaker and Westminster.

D. With regards to deficiencies concerning sensitive species:

1. The entirety of the Project site was never fully surveyed. Page 4.3-1 of the Draft EIR states, "for purposes of this section, 'project site' refers to the property bounded by the water supply channels, AES Alamitos facilities, and Studebaker Road. 'Project area' includes project site and the extension of the sewer line to its proposed connection." A reconnaissance-level survey of the project site was conducted on February 20, 2004; a burrowing owl breeding season survey [of the study area] was conducted March 24-March 29, 2004; a routine jurisdictional delineation of a small portion of the Los Cerritos Channel was conducted on July 2, 2004.

2. These surveys were conducted outside of the activity/blooming period for many sensitive species, as identified in Attachment A (Sensitive Species Summary) to Appendix C (Biological Constraints Analysis). Of specific note is the southern tarplant, "not observed during surveys but suitable habitat and conditions are present in the project area." The activity/blooming period is May-November, not February and March, when the surveys were conducted, yet page 4.3-9 of the DEIR it is stated that, "No sensitive plant species or natural communities are expected to occur on site or within Los Cerritos Channel due to lack of suitable habitat....impacts to vegetation are less than significant, and no mitigation is required." The above referenced "analysis" and statements of impact significance are contradictory to the findings contained within the Biological Constraints Analysis.

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3. CDFG (in comment identified in the FEIR as S-2-3) requested mitigation requiring future surveys prior to construction as "these species may have been present [during the Feb. survey] only as seed or very small individuals, they could have easily been overlooked. Surveys during an appropriate season, when the plants can be detected, are need to support the conclusion that these species are not present." The response to this comment indicated that "no sensitive plants were observed during the surveys and are not expected to occur on the project site because of lack of suitable habitat...Therefore additional surveys are not necessary." As indicated above, the southern tarplant is listed as "moderate occurrence probability" with "suitable habitat and conditions are present in the project area."

4. As a burrowing owl was found on-site during the reconnaissance level survey of February 2004, a breeding season burrowing owl survey was conducted. Appendix C to the DEIR indicates that the burrowing owl survey was conducted in accordance with Burrowing Owl Survey Protocol and Mitigation guidelines prepared by the California Burrowing Owl Consortium (1993). This Protocol, however, was not followed. The first sentence on page 1 of the protocol states, "the first step in the survey process is to assess the presence of burrowing owl habitat on the project site including a 150-meter (approx. 500 ft.) buffer zone around the project boundary." Per Figure 2 of Attachment B to Appendix C showing the areas surveyed, neither the entirety of the project area, nor the 150-meter buffer was surveyed. Further, about half way down page 2 of the protocol it states, "if no owls are observed using the site during the breeding season, a winter survey is required." For this project, no owls were observed during the breeding season survey, yet no winter survey was conducted.

The CDFG indicated that "the absence of nesting owls during [the breeding season] survey period does not ensure that burrows will not be occupied in the future." CDFG went on to request additional mitigation for the protection of this species. The City responded that "it conditions it's applicants to obtain future surveys." This amounts to deferral of mitigation in that the City failed to list the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan.

5. Attachment A (Sensitive Species Summary) to Appendix C (Biological Constraints Analysis) of the DEIR indicated that, with regards to bird species: 4 species (northern harrier, merlin, American peregrine falcon, and California horned lark) may forage on site; one species (California least tern) may occasionally overfly the site; one species (Allen's hummingbird) is fairly common in developed areas; one species (burrowing owl) was observed onsite; and one species (loggerhead shrike) was formerly widespread in the area, but increasingly rare. Attorney Doug Otto declared that the proposed development would be fronted with 40 feet of glass (see above). Bird collisions with glass are increasingly common, often resulting in broken beaks, feathers, head trauma, and/or death. The proposed building design did not consider potential impacts to these special status bird species with regards to glass strikes, especially given the proximity of the project to the wetlands and the Pacific Flyway.

6. A records search utilizing the California Natural Diversity Database was conducted for the Los Alamitos USGS 7.5-minute series quadrangle and the results were provided as Attachment A (Sensitive Species Summary) to Appendix C (Biological Constraints Analysis) of the DEIR. However, I conducted a similar search (included as attachment A to this appeal), and noticed that several species were omitted from the list contained in the City's list: the western yellow billed cuckoo (California endangered and federal candidate species), the southern California saltmarsh shrew and the south coast marsh vole (both CDFG species of concern), and the San Bernardino Aster (California native Plant Society plant considered to be rare, threatened, or endangered in California and elsewhere). Statements of impact significance cannot be made until all species are identified and surveyed for.

COASTAL COMMISSION

EXHIBIT # 7
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E. With regards to analysis concerning the wetlands:

1. The entirety of "analysis" regarding potential impacts to wetlands is exactly this, "The project site is currently developed with industrial uses and is separated from the Los Cerritos wetlands by a major arterial (Studebaker Road). Implementation of the proposed project would not result in any significant adverse effects to the Los Cerritos Wetlands from project sources such as traffic, light, and noise. These sources already exist and are not expected to increase substantially. Therefore, no mitigation measures are required."

(a) There was no roadway link analysis conducted for this project, so one cannot conclusively determine that traffic will not increase substantially. However, when the Long Beach Unified School District requested a carbon monoxide analysis from vehicles in the vicinity of Kettering Elementary School, the City's response (R-L-3-2) was, "The traffic study included an analysis of project impacts at intersections surrounding the project site. Generally, the circulation network is constrained by the operation of the intersections. If the intersections operate satisfactorily, generally the roadway segments will also operate below capacity. Therefore, an intersection analysis would provide an adequate disclosure of the operations of the circulation network." This same rationale must, then, be applied to analysis of potential traffic impacts on the Los Cerritos Wetlands. The intersection immediately adjacent to the wetlands (Studebaker Rd./2nd St.), is forecast to decrease from LOS D to a LOS E during a.m. and p.m. peak hours with project implementation (mitigation proposed includes 3rd party agreement and is not considered to be feasible) and decreases from LOS E to LOS F during the weekend peak hour. Project implementation triggers an exceedance of the City's significance threshold for traffic impacts at the Studebaker Rd/2nd St intersection. How can traffic increase substantially triggering a significant impact at an intersection, yet not "be expected to increase substantially" at the roadway leading up to the impacted intersection; a roadway abutting an ecologically sensitive area? The City completely glossed over any potential impacts to wetlands arising from increased traffic.

(b) As Studebaker Road currently has no street lights, and the existing tank farm emits no light, Project operations will create a new source of light in the area. The potential impacts to the wetlands from spillover lighting were not analyzed. Instead, rationalization was provided that these sources already exist, though clearly they do not. Justification was also provided (see response to comment R-P-62-11) which stated, "The effect of an incremental increase in traffic, light and noise on specific animal species has not been extensively studied and there is no established threshold for animal disturbance." However, Ann Cantrell of the Los Cerritos Wetlands Land Trust stated in her speech to the City Council on October 3, "I was able to locate three professors at UCLA who have done extensive study on these issues. Catherine Rich, JD and Travis Longcore, Ph.D. have edited a book entitled 'Ecological Consequences of Artificial Night Lighting'. In short, the book quotes many studies on the effect artificial lighting has on wildlife and ecosystems." It is not that these studies do not exist, rather, the City chooses to ignore them, to the detriment of the species residing in the adjacent wetlands.

F. The City failed to address the overriding Coastal Act issue connected with the proposed development: project impact on wetland habitat. The City determined that no wetlands exist onsite, however, as indicated on page 5 of Appendix C to the DEIR, "...a jurisdictional delineation of the principal project site was not conducted..." However, hydrophytes were prevalent in various patches about the site. Also evident was an ordinary high water mark (OHWM) in a ditch onsite. Given variability in environmental conditions along the length of the California coast, wetlands include a variety of different types of habitat. The presence of any one of three conditions (water, hydrophytes, or hydric soils) can result in a determination that a wetland is present. The City erred in making a determination in the face of these findings and failing to consult with either CDFG or the Corps.

A routine jurisdictional delineation of portions of the Los Cerritos Channel was conducted by LSA. In

the jurisdictional delineation report (Attachment C to Appendix C of the DEIR), LSA "recommends having the Corps and CDFG verify the accuracy of this delineation." There is no evidence in the DEIR that this consultation was conducted. LSA's determination is provided without agency concurrence.

G. It has not been sufficiently demonstrated that operational BMPs will adequately keep runoff, trash and debris from entering the two water intake channels determined to be jurisdictional waters.


H. The proposed sewage line extends over the Los Cerritos Channel. It appears as though no operational BMPs are proposed to protect the Los Cerritos Channel from sewage line rupture and/or leaking. As placement of this sewage line is tributary to the Los Cerritos wetlands adjacent, any upset conditions would have disastrous consequences downstream.

I. The proposed Project involves the relocation of existing pipelines onsite. Construction BMPs do not appear to adequately address any possible accident conditions. The two intake channels and adjacent waterways remain unprotected.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: October 30, 2006

Note: If signed by agent, appellant(s) must also sign below.

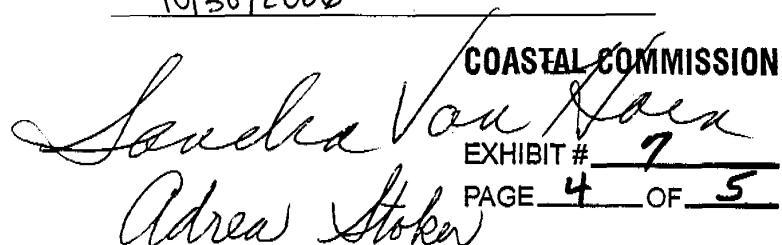
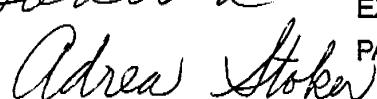
Section VI. Agent Authorization

I/We hereby authorize Heather Altman
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: 10/30/2006


COASTAL COMMISSION
EXHIBIT # 7
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Results

Attachment A.

http://imaps.dfg.ca.gov/viewers/CNDDDB_QuickViewer/list_cnddb_speci...

Print table Show entire table in new window Export entire table to a text file

Results for LOS ALAMITOS Quad (3311871) - 24 elements selected

Record	QUADNAME	ELMCODE	SCINAME	COMNAME	FEDSTATUS	CALSTATUS	CDFG	CNPSLIST
1	Los Alamitos	ABNNM08103	Sterna antillarum browni	California least tern	Endangered	Endangered		
2	Los Alamitos	ABNRB02022	Coccyzus americanus occidentalis	western yellow-billed cuckoo	Candidate	Endangered		
3	Los Alamitos	ABPBX99015	Passerculus sandwichensis beldingi	Belding's savannah sparrow	None	Endangered		
4	Los Alamitos	ABPBXB00020	Agelaius tricolor	tricolored blackbird	None	None	SC	
5	Los Alamitos	AMABA01104	Sorex ornatus salicornicus	southern California saltmarsh shrew	None	None	SC	
6	Los Alamitos	AMACC05070	Lasiurus xanthinus	Western yellow bat	None	None		
7	Los Alamitos	AMAFF11035	Microtus californicus stephensi	South coast marsh vole	None	None	SC	
8	Los Alamitos	ARAAD02032	Emys (=Clemmys) marmorata pallida	southwestern pond turtle	None	None	SC	
9	Los Alamitos	ARACF12021	Phrynosoma coronatum (blainvillii population)	Coast (San Diego) horned lizard	None	None	SC	
10	Los Alamitos	CTT52120CA	Southern Coastal Salt Marsh	Southern Coastal Salt Marsh	None	None		
11	Los Alamitos	IICOL02101	Cicindela hirticollis gravida	sandy beach tiger beetle	None	None		
12	Los Alamitos	IICOL02113	Cicindela latesignata latesignata	tiger beetle	None	None		
13	Los Alamitos	IICOL02121	Cicindela senilis frosti	tiger beetle	None	None		
14	Los Alamitos	IILEPP2010	Danaus plexippus	monarch butterfly	None	None		
15	Los Alamitos	PDAST4R0P4	Centromadia parryi ssp. australis	southern tarplant	None	None	1B	
16	Los Alamitos	PDAST5L0A1	Lasthenia glabrata ssp. coulteri	Coulter's goldfields	None	None	1B	
17	Los Alamitos	PDASTE80C0	Symphytotrichum defoliatum	San Bernardino aster	None	None	1B	
18	Los Alamitos	PDCHE041T1	Atriplex serenana var. davidsonii	Davidson's saltscale	None	None	1B	
19	Los Alamitos	PDCHE0P0D0	Suaeda esteroa	estuary seablite	None	None	1B	
20	Los Alamitos	PDHYD0A0H0	Nama stenocarpum	mud nama	None	None	2	
21	Los Alamitos	PDMAL110J0	Sidaacea neomexicana	Salt Spring checkerbloom	None	None	2	
22	Los Alamitos	PDPGN0G011	Nemacaulis denudata var. denudata	coast woolly-heads	None	None	1B	
23	Los Alamitos	PDSCR0J0C2	Cordylanthus maritimus ssp. maritimus	salt marsh bird's-beak	Endangered	Endangered	1B	
24	Los Alamitos	PMPOA4G010	Orcuttia californica	California Orcutt grass	Endangered	Endangered	1B	

Print table Show entire table in new window Export entire table to a text file

The species identified above do not appear in Attachment A (sensitive species) of Appendix C of the Home Depot Draft EIR.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The subject site, Subarea 19, is zoned MG, industrial and related uses. It does not permit commercial, retail, food and alcoholic uses unless it is ancillary to the industrial use. The Home Depot project is outside the zoning ordinance definition, thus, cannot be permitted.

SEADIP PD-1 page-1 #4 states "a minimum of 30% of the site shall be used and maintained as open space." The Home Depot project falls short of this minimum requirement

SEADIP PD-1 page-2 #5 states "the maximum height of buildings shall be 30' and 35' for non-residential uses. The Home Depot exceeds this requirement with its 40' tall glass front. This glass front is also an endangerment to birds both common and endangered including migratory and resident species.

The Home Depot project proposes to traverse the Los Cerritos Wetlands Channel (fully tidal) with a sewer line under the Loynes and Studebaker Bridge. Home Depot does not have a Coastal Permit for this use.

The Home Depot project is bounded by tidal waters on three sides. These wetlands are listed within the US Fish and Wildlife Service's National Wetlands Inventory Map. Further, the only buffer to Los Cerritos Wetlands is the thorough-fare, Studebaker Road, which is only 100' wide.

Natural Areas Map, includes Federal and State areas; California Natural Diversity Data Base, EPA Endangered Species Protection Program Database, LA County and Orange County.

- San Diego Horned Lizard, Species of special concern
- Salt Spring Checkerbloom, CNPS Plant rare threatened or endangered in California
- Southern Tarplant, CNPS Plant rare threatened or endangered in California
- State Rank S2.1
- Belding's Savannah Sparrow, State Endangered Species
- Southern Coastal Salt Marsh, remnant of 2,400 acre historical marsh AC Speth 1976, near power plant, oil field and urbanization.
- California Least Tern, Endangered
- Northern Harrier, CA; CSC, nests and may forage
- Merlin, CA; CSC, foraging on site may occur
- American Peregrine Falcon, CA; endangered, nests, may forage
- Burrowing Owl, CA; CSC, bird observed onsite

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- Allen's Hummingbird, CA; SA
- Loggerhead Shrike, CA; CSC, rare in LA County
- California Horned Lark, CA; CSC, may forage onsite
- Tricolored Black Bird, CA; CSC
- San Diego Black-Tailed Jackrabbit, CA; CSC, may occur
- California Brown Pelican, Federal and California endangered

SEADIP page-2 #14 "no additional cuts shall be permitted on Studebaker Road, Pacific Coast Highway, Westminster Avenue (2nd Street) or 7th Street, unless it can be shown that inadequate access exists from local streets or unless specifically permitted by Subarea regulations provided herein. This restriction shall not preclude emergency access from these streets as maybe required by the City." The Home Depot project is dependant on road cuts.

SEADIP page-4 #13 "Adequate landscaping and required irrigation shall be provided to create a park-like setting for the entire area. A landscaped parkway area shall be provided along all developments fronting on Pacific Coast Highway, Westminster Avenue (2nd Street), Studebaker Road, Seventh Street and Loynes Drive. The Home Depot project is not providing this landscaping and irrigation along these roadways. The only money provided to Loynes Drive, the gateway road into Home Depot, is \$20,000 every five years to repave this poorly built road that has resulted in single car accidents and death.

In conclusion, this project should not be treated as a stand alone project with its only possible permitting would be through spot zoning and throwing out SEADIP Area 19 plan. This project does not conform with the spirit of SEADIP or the Coastal Act. This project will be precedent setting since no other big-box retailer is located within the Coastal Zone.

Attachments: 1) Natural Areas Map, 2) National Wetlands Inventory Map

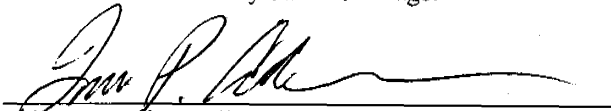
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

*Tim Anderson, Janice Dahl
& Mary Parsell*

The information and facts stated above are correct to the best of my/our knowledge.

*Janice Dahl 10/13/06
Mary Parsell 10/13/06*



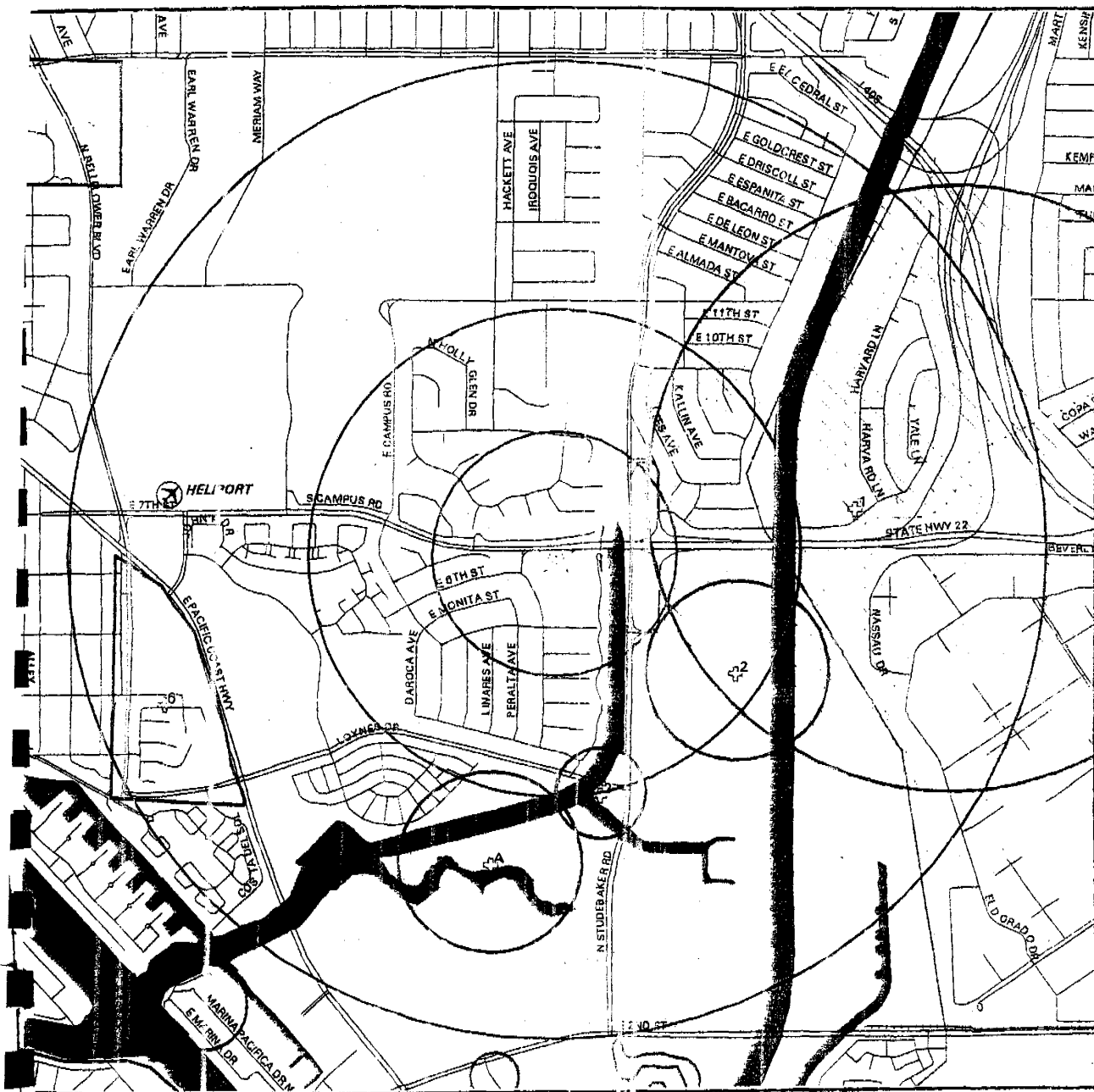
Signature of Appellant(s) or Authorized Agent

Date: 10/13/06

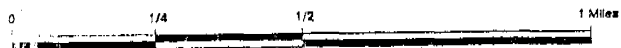
COASTAL COMMISSION

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Natural Areas Map



- Target Property
- Roads
- County Boundary
- Waterways
- Water
- Airports
- Locations
- Federal Areas
- Federal Linear Features
- State Areas
- State Linear Features



COASTAL COMMISSION

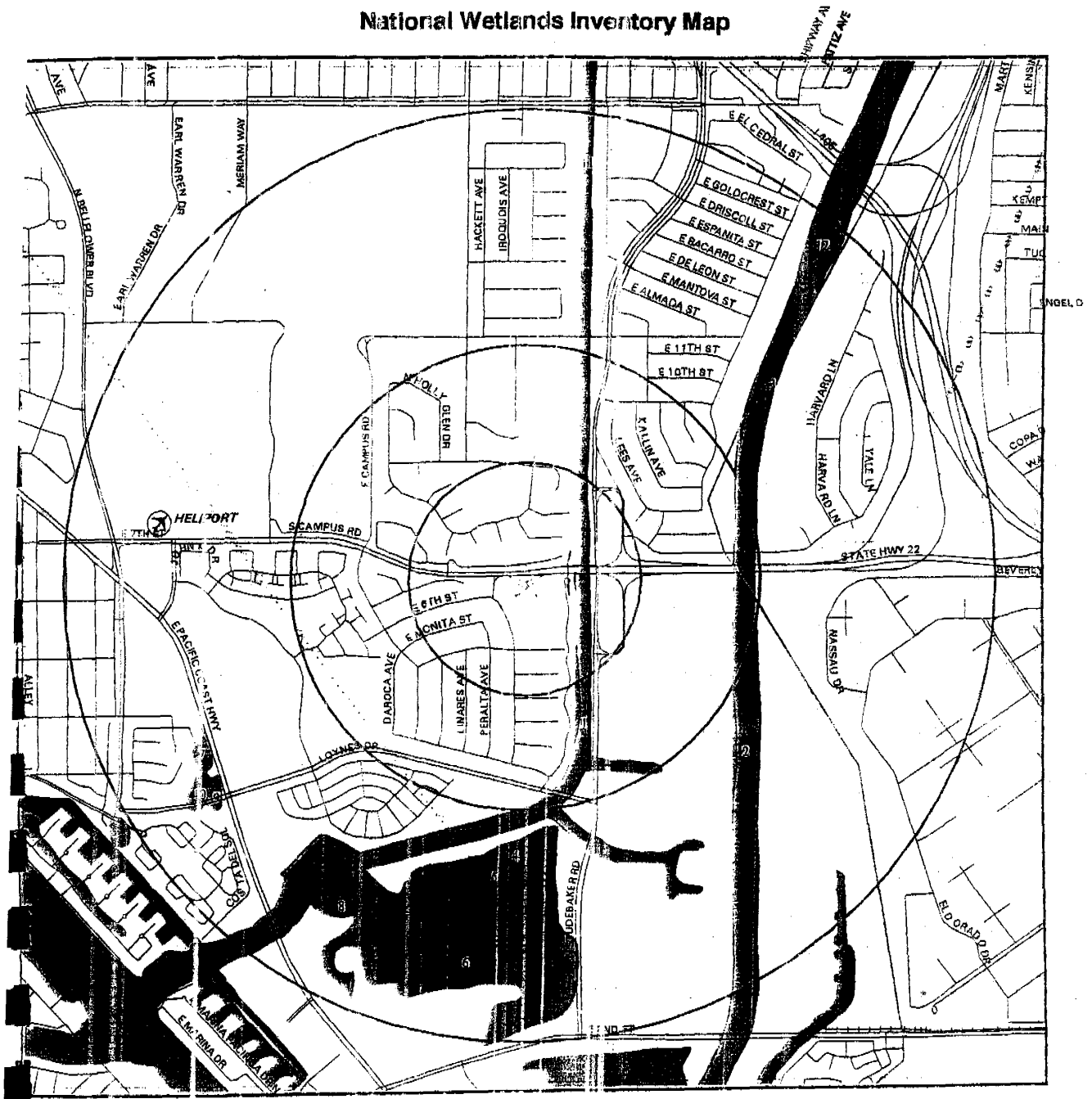
EXHIBIT # 8
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TARGET PROPERTY: Proposed HD - Long Beach, CA
 ADDRESS: Laynes Dr and N. Studebaker Rd
 CITY/STATE/ZIP: Long Beach CA 90803
 LAT/LONG: 33.7740 / 118.1058

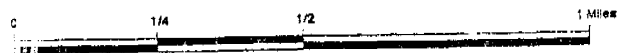
CUSTOMER: GeoSyntec
 CONTACT: Ms. Phuong Ly
 INQUIRY #: 1435355.9s
 DATE: June 03, 2005

TC1435355.9s Page 3 of 37

National Wetlands Inventory Map



- Major Roads
- Contour Lines
- Waterways
- County Boundary
- Airport
- Power Lines
- Pipe Lines
- Fault Lines
- Water
- Federal Wetlands
- Electronic N'W1 data available
- Electronic N'W1 data not available



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EXHIBIT # 8
PAGE 4 OF 4

TARGET PROPERTY: Proposed HD - Long Beach, CA
 ADDRESS: Loynes Dr and N. Studebaker Rd
 CITY/STATE/ZIP: Long Beach CA 90803
 LAT/LONG: 33.7740 / 118.1058

CUSTOMER: GeoSyntec
 CONTACT: Ms. Phuong Ly
 INQUIRY #: 1435355.9s
 DATE: June 03, 2005

TC1435355.9s Page 15 of 37

1. This project is located in subarea 19 of PD-1 (SEADIP, or Southeast Development and Improvement Plan.) This subarea of SEADIP, permits development and uses consistent with the provisions of the General Industrial zoning district. This project is not industrial, but a retail-commercial center and does not comply with SEADIP uses.

2. The project does not comply with SEADIP PD-1 provision A.14. "no additional curb cuts shall be permitted on Pacific Coast Highway, Westminster Avenue, Studebaker Road, or Seventh Street, unless it can be shown that inadequate access exists from local streets or unless specifically permitted by Subarea regulations provided herein." The proposed curb cuts will be sixty-eight feet (68') for the main entry and thirty feet (30') for the other two curb cuts.

Section 21.41.253 of the Long Beach Municipal Code limits curb cuts of parcels in excess of 400" in width to three and a maximum width of twenty-four feet (24"). The project received a Standards Variance to permit the proposed curb cuts to exceed the 24' limit in violation of SEADIP.

3. The Home Depot project does not comply with SEADIP PD-1 provision A.5, "The maximum height of buildings shall be 30 feet for residential and 35 feet for non-residential uses, unless otherwise provided herein." At the City Council hearing on October 3, 2006, Doug Otto, attorney for the development, stated that the "entrance to the store will be fronted by 40 feet of glass". There is no record of a variance to this height restriction.

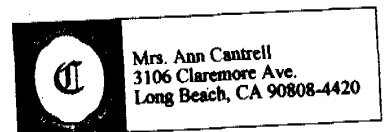
Although this project is on the Pacific Flyway, no study was done as to the possible hazards this glass could have for the many birds flying in the area.

4. The Home Depot project does not comply with SEADIP PD-1 provision A.4, "A minimum of thirty percent of the site shall be developed and maintained as usable open space." According to page 6 of the information given the Long Beach Planning Commission at its August 17, 2066 hearing to Certify the EIR, Open Space on the actual site at 400 Studebaker Rd. is approximately 21.64% or 154,698 square feet of the total 714,820 sf. (I was unable to reconcile these figures.) The applicant then acquired a 59,968 square foot total (1.37 acre) of undeveloped land

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adjacent to 7th Street, approximately 3,000 feet from the subject property. This area is not included in SEADIP nor is it in the coastal zone.

CALTRANS owns 13,814 square feet of this property, which will be inaccessible to the public. The LA County Flood Control owns 18,730 sf of the property, 10,375 sf of which will be inaccessible to the public. This leaves 35,779 sf as public accessible open Space. Even with this addition of off-site land, the project still has only 26.6% of usable open space and is in violation of SEADIP requirements.

As of August 17, 2006, the applicant still had to obtain approvals from CALTRANS and the LA County Flood Control District for all proposed improvements on the 7th Street property, including maintenance, yet this was being counted as available open space for the project.

5. The project is inconsistent with the Local Coastal Program (LCP) for Long Beach which prohibits the disruption of existing neighborhoods from traffic flow. This violation was not analyzed in the EIR.

The project's lack of consistency with the Community Plan as well as the LCP is a violation of Government Code section 65400.5's requirement to ensure projects are consistent with the General Plan.

6. Although this site is not adjacent to the beach, it is on a major artery used by beachgoers. The EIR found that traffic and travel time will be increased by this project. There were no mitigations possible to improve the levels of traffic at several major intersections in the vicinity. One mitigation calls for the restriping Studebaker Rd. with three lanes instead of the current two in each direction. This will eliminate space for bicyclists or pedestrians who now use this street to get to the beach.

7. The restriping will also place traffic closer to the existing Los Cerritos Wetlands on the west side of Studebaker. Although the Home Depot EIR denied there were any studies on the effects of noise, traffic and lights on wetlands, many such studies show that these do adversely effect wildlife. Many scientists believe there should be a buffer of 500 to 900 feet between such developments and wetlands. These existing wetlands and channels will only have the 100 foot buffer of Studebaker road.

Studebaker Road currently has no street lights, and the existing tank farm

emits no light, Project operations will create a new source of light in the area, including 45 light poles, 40 feet tall with metal halide lamps. The potential impacts to the wetlands from spillover lighting were not analyzed. Instead, it was stated that these sources already exist, though clearly they do not. Justification was also provided (see response to comment R-P-62-11) which stated, "The effect of an incremental increase in traffic, light and noise on specific animal species has not been extensively studied and there is no established threshold for animal disturbance." Catherine Rich, JD and Travis Longcore, Ph.D. have edited a book entitled 'Ecological Consequences of Artificial Night Lighting'. In short, the book quotes many studies on the effect artificial lighting has on wildlife and ecosystems. It is not that these studies do not exist, rather, the City choose to ignore them.

The project site itself may also contain wetlands. The potential impact was not analyzed. There was no jurisdictional delineation conducted for the site.

8. The current site at 400 Studebaker is surrounded by the San Gabriel River on the east, the Los Cerritos Channel on the west and two intake channels for the generating plants on the north and south. Home Depot will be selling pesticides, herbicides, fertilizers, paints, paint thinners and other products, which if spilled into any of these jurisdictional waterways would harm the water quality and possibly kill the fish, birds and invertebrates.

9. Lastly, there is a proposed sewer pipe from the Home Depot project that will be attached to the Loynes Drive Bridge to connect with the sewer for the University Park Estates homes. This sewer pipe would be going over the jurisdictional waters of the Los Cerritos Channel. This area is on a known earthquake fault. There is also the possibility the constant vibrations from cars could cause breakage of the line and leakage of raw sewage into the channel and adjacent wetlands.

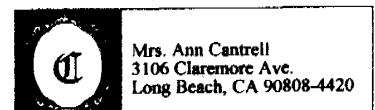
There are some of the reasons I believe there are grounds for an appeal. Thank you for your consideration.

Ann Cantrell
Treasurer
Los Cerritos Wetlands Land Trust

COASTAL COMMISSION

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

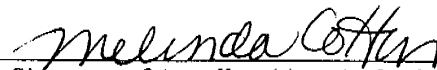
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Inadequate and flawed EIR. Significant adverse impacts, unable to be mitigated. Does not address affects of light and noise and traffic on the Wetlands. No mitigation for air quality impacts and impacted intersections. Does not meet required open space criteria. Part of traffic mitigation would take and use land restricted for use in furtherance of Wetlands restoration, a certain 5.1 acre parcel at 200 Studebaker in which Don May and California Earth Corps have a vested interest. (See attached letter from Don May.) No mitigation for majority of traffic impact.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: October 4, 2006

COASTAL COMMISSION
AS-LOB-06-400

EXHIBIT # 10
PAGE 1 OF 3

**CALIFORNIA EARTH CORPS
4927 Minturn Avenue
Lakewood, CA 90712
(562) 630-1491**

Angela Reynolds
City of Long Beach
333 W. Ocean Blvd. Seventh Floor
Long Beach, CA 90802

August 17, 2006

Re: Home Depot EIR Traffic Impacts Mitigation

Dear Ms. Reynolds,

The Home Depot Project EIR properly identifies the intersection of Studebaker and 2nd Street, already at a substandard level of service, as the one most heavily impacted by the Project. Mandated mitigation, in part, requires that right turn pockets be constructed around the north east corner of the intersection, utilizing a substantial portion of a 5.1 acre parcel on the south west corner of the old Southern California Edison (SCE) tank farm, a property in which I hold a vested interest. It is not available for this use.

In settlement of some litigation over the use of funds derived from Don May et al v SCE for mitigation of marine impacts of San Onofre, Judge Stevens decreed that the bulk of the funds must be used for tasks on the Project List of the Southern California Wetlands Recovery Project of the California Coastal Conservancy. The Los Cerritos Wetlands restoration is, and has been, the top priority and #1 on that list since it's inception. SCE exchanged \$2 million of those funds for an Irrevocable Offer to Dedicate (IOTD) those 5.1 acres, in favor of the Coastal Conservancy, who would nominate, May and Jeffries concurring, a use which would advance the restoration of Los Cerritos. After June 1, 2006, May and Jeffries would nominate and CCC would concur. Informal discussions of potential uses to support wetlands restoration have never and could never include traffic control measures, nor have the parties ever been approached by anyone suggesting any use at all, or offering to purchase the IOTD. May and Jeffries are Officers of California Earth Corps.

California Earth Corps opposes the Home Depot project because of the attendant loss of restoration options and adverse impacts upon a restored San Gabriel River Estuary. We worry that light emanating from the Project and traffic and noise generated by the Project will adversely impact a restored estuary, and that those impacts were not analyzed nor mitigated. We fret that the buffers and birms to mitigate those effects are expensive, will require land otherwise restored to estuary, and will result in less wetland and higher costs borne by the public to subsidize the Project. We are concerned that first flush of storm water runoff from the Home Depot parking lots, known to generate substantial loads of priority contaminants, will carry those toxicants into the Los Cerritos Channel feeding the Los Cerritos Wetland, and yet the EIR fails to analyze this. None of the Standard Urban Stormwater Mitigation Plans (SUSMP) required by the Clean Water Act for an NPDES Permit have been identified and required for mitigation. These impacts are of the genre that may not be dismissed with a Statement of Overriding Considerations.

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PAGE 2 OF 3

California Earth Corps has criticized the EIR for failure to evaluate positive Alternatives that would offer greater benefits to the surrounding community and for the City as a whole. We have long advocated the proposed Home Depot site for an Estuarine Research Laboratory because of the unique availability of substantial quantities of clean sea water, appropriate zoning and utilities, but other beneficial land uses more appropriate for this site come to mind as well.

While alternative traffic control signals may be possible at the Studebaker & 2nd Street intersection, they will not fully mitigate the impacts of the Home Depot, let alone the concurrent traffic load generated by the SeaPort Village Project and the Marina Shores East Projects, also not analyzed as required by CEQA. Dave Jeffries and I would not be willing to allow any usage of the 5 acre IOTD parcel for traffic mitigation for the Home Depot Project, as the IOTD Covenant requires all of that 5 acres must be used solely in furtherance of the restoration of the Los Cerritos Wetlands. The EIR states that in the event that this mitigation is not possible, it can be overridden with a Statement of Overriding Considerations. California Earth Corps does not believe these traffic impacts can be cavalierly dismissed as inconsequential.

We believe Long Beach has both the opportunity and the mandate under CEQA to fully evaluate these issues in order to provide the basis of reliable information necessary for informed decision making in the Public Interest. Therefore, we urge this Commission to find the EIR inadequate and Decline Certification.

Thank you for your attention.

Sincerely,

Don May, President,
California Earth Corps

COASTAL COMMISSION

EXHIBIT # 10
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10/28/06

To: California Coastal Commission

From: Thomas Marchese J. D. Vice President and Legal Liaison for the University Park Estate Neighborhood Association and founder of the Los Cerritos Wetlands study group SEADIP up date committee

Re: EAST LONG BEACH PROPOSED HOME DEPOT
at 400 N. STUDEBAKER RD.

Appeal to the California Coastal Commission to Rescind both Coastal Permits due to inadequate Findings and to Deny standards variances inconsistent with our Local Coastal Plan.

Substantial Issues and Concerns surrounding the Home Depot Project Proposal:

1. This entire area needs a MASTER PLAN . The largely uncertified SEADIP plan of 1981, our putative LCP . remains in conflict with Federal and State laws. All 3 pending proposals in this area are also in conflict with our 2010 General Plan and not in keeping with the laudable goals of California Coastal Act 1976 section(CCA@infra) 30001. The overwhelming desire to protect this entire area from further deterioration or destruction of the delicate balance of Nature unique to our Coastal zone , should outweigh the shortsightedness of the decision process thus far , as Tax Revenue born of fiscal crisis alone , unfortunately, appears to have been the paramount directive .

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2. The commendable work of the LOS CERRITOS WETLANDS STUDY GROUP of 2004-6 (LCWSG infra), a rezoning effort aimed at a community based update of SEADIP, should serve as a template. This Official Report found that spot zoning individual parcels was adverse to a well reasoned overall plan that could minimize negative impacts to the entire area. No Commercial or Heavy Industrial uses were deemed practical by a Blue Chip, award winning panel who studied objectively under leading experts in many fields. The desire to thoroughly test and remediate all soils now rather than later remains an unfulfilled promise as well. The desire to maximize the acquisition and restoration of the Los Cerritos Wetlands (LCW infra) and to minimize deleterious impacts through minimally invasive use of adjacent areas, remains the overwhelming popular desire of the adjacent stakeholders. We contend that this over-arching concern is in the best interest of this entire town, County, State and Nation. Our local Councilman and Mayor pledged to accept and implement this work in toto while campaigning, as it had been unanimously ratified by the Planning Commission, Council and Mayor. Whether or not these assurances are fulfilled remains open to debate. Your wisdom, objectivity and fairness could be pivotal in this decade's long debate between a few developers and a vast number of preservationists. We look to you for guidance as to what, if anything, is permitted in or adjacent to what is now described by USF&G as the most pristine Ancestral Inland Estuary in all of Southern California. (#2 in all of CA, and in the top 5 Nationally)

3. THIS PROPOSAL IS INCONSISTENT WITH OUR LOCAL COASTAL PLAN and the FINDINGS ARE INADEQUATE TO JUSTIFY THE GRANT OF A CONDITIONAL USE PERMIT.

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The City of Long Beach claims that this proposal is consistent with the Local Coastal Plan. It clearly is not. They claim an Accessory Use justifies a Conditional Use permit in the absence of a zoning change or a variance. This violates the city's own municipal ordinance as a major commercial use is neither incidental nor subordinate nor necessarily related to an Industrial operator as a grandfathered in Principal use. A detailed memorandum appears as Attachment A in the Appeal To Council file entitled MARCHESE/DRUMMOND/LOFTIN/TRENT attached to the FDEIR . Furthermore , the presently over optimistic legislative intent of SEADIP, which looked to the Bolsa Chica Wetlands and adjacent low density minimally intrusive land uses for conformity , quickly became unworkable as viewed against modern , far more environmentally protective mandates . The wisdom of our predecessors in interest, never contemplated and prohibited such dense mega retailers as the roads and infrastructure were deemed overburdened by 1976-1981 standards and because neighborhood preservation and Wetlands stewardship were deemed paramount. Since then, the build out and density has reached a crisis point where the Community can tip the scales in the direction of hyper dense Marina Del Rey style Urban Planning , or , in the far more popular direction of Huntington Harbor and Bolsa Chica , where the closest Mega Box warehouse store in wisely located miles inland in a properly planned an buffered Commercial zone , which is palpably absent here .

4. THIS PROPOSAL IS INCONSISTENT with the 30% on site open space requirement of SEADIP as well .

Only 22% open space is achieved on site and in the Coastal

COASTAL COMMISSION

Zone. The additional 6 acres are out of the Coastal Zone and violate the ordinance. This applicant should fulfill the ordinance on the premises and downsize this proposal at a bare minimum. The findings by the City of Long Beach are woefully inadequate to justify mitigation nearly a mile away inside a neighborhood whose HOA filed a Board Resolution unanimously opposing this.(Appeal to Counsel Attachment E) and whose residents remain 94-96 % opposed to this proposal along with their many affiliated HOA'S in the area. Similarly , departure from the original density constraints is evidenced by the variances for far wider curb cuts than ever contemplated by the LCP and the absence of a proper frontal street of 6+1 but preferably 8+1 lanes as seen in Signal Hill and elsewhere. Roadbed and bridge widening and a full Loynes rehab should be shared cost Conditions of Approval.

5. NATURAL RESOURCES

- a) Heavily contaminated soils remain untested and the DTSC (Department of Toxic Substances Control) complaint, the two AQMD directives and the mandates of CEQA in this area remain largely ignored . These are but some of the many instances of nondisclosure or deferred or ignored mitigation which we are filing suit to have properly included in this arguably flawed CEQA document and which we were assured would become Conditions of Approval , which unfortunately remain absent .
- b) There has never been irrigation on the lot and this proposal will deliver Tons of it percolating downward per year. Introducing water flow down and then out to the two adjacent ocean canals will allow decades of accumulated high level toxicants to leach into the

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4

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groundwater and ocean on a daily basis . We remain concerned that similar inundation and migration will have similar affects on a vast number of 56 year old underground pipes which will remain in operation onsite and are prone to leakage . Untraceable leaks and those large enough to be documented, have discharged petroleum into the ocean on numerous past occasions . This is harmful rather than helpful to our desire to improve water quality and restore the Wetlands . Suggestions to install permeable asphalt were also dismissed on tenuous grounds.

- c) The storm drains alone will harm the delicate balance of nature as tons of trash per year will be generated and then plumbed to the Ocean as designed. A huge building supplies vendor is a “dirty operation” when judged against a range of alternative uses . Opponents have urged since inception that all runoff be directed to an underground sewer running parallel to Studebaker and adequately sized for sewage and runoff . A cost saving and highly unusual design to put a sewer pipe parallel to the Loynes Drive bridge over the Los Cerritos Channel and in the vicinity of the San Aliso fault , that would contain pressurized raw sewage , is an accident waiting to happen. Allowing gravity fed discharges along a sewer encased in dirt is a far safer and wiser design owing to the delicate nature of the adjacent Wetlands . This very feasible and should be a condition of approval . If we are building a Commercial corridor then we should install parallel mains . AES has no sewer either .
- d) The lights would disrupt the normal day and night cycle of the estuary. The proposal includes 45 or more 45 foot high energy lamp standards. A large radiant glare

COASTAL COMMISSION

would shine on the estuary, thus disrupting the day/night cycle. Species will move away or perish. Experts believe that illuminating this previously very dark location could potentially kill off many of the endangered or protected species in the estuary, displace them or dissuade them from even coming there. The lights will also cause more fish to be lured into the two intake channels as they would glisten all night long and thus attract more fish or subspecies. An increase the level of 'Fish Kill' due to entrainment is not in the best interest of restoring our estuary. Our goal is reducing it by at least 50% and the reconnection of the South channel to the San Gabriel River as a cost effective first step towards restoration of the critical tide cycle. A marine life only bypass channel and modern anti entrainment devices could significantly allow our fish stocks to rebound.

We respectfully request that all of the concerns voiced in the memos contained in the vast oppositional files accompanying the NOP, DEIR, RDEIR and FDEIR be reassessed as to the negative impacts to the water, air quality, the estuary and the adjacent area residents. We are hopeful that our rights will be reassessed as the protections afforded by several agencies remain largely ignored. We have reviewed about 10,000 Home Depot or Loews proposed or existing stores and can find none that could be accessed by boat from both sides . This is because most Municipalities are prudent enough to realize that a mega box is far below the highest and best use of such unique ocean front land. This is also logically inconsistent with well thought out proper Urban Planning .

COASTAL COMMISSION

6. LACK OF PROPER TRAFFIC MITIGATION WILL IMPAIR COASTAL ACCESS

Millions of inland visitors come and go to the Ocean annually through intersections , ramps and roads which are seriously impacted by this proposal . The 605 and SR22 terminate and merge with two main arteries of the 405 as well . All direct mass traffic flow to and from State Route 1 directly past this project. The bridge and both ramps at 7th and Studebaker have recurring conflicts according to CALTRANS and both will function at LOS F or worse if this proposal is approved. Neighbors have observed 3 accidents in one hour here . Two tragic fatalities occurred recently on SR22 to Studebaker and West on Loynes. Specified mitigation called for in the FDEIR was deemed not feasible. Doubling these ramps and widening the bridge and signaling the entrance to College Park East and West is clearly feasible, but costly. The City of Seal Beach testified that they would assess a minimum of 2,177,000 Million dollars for the ramps alone if they were writing the Conditions of Approval ,and are assessing a fair share contribution request from the Lennar as well. Such improvements should not be deferred, they should be shared cost Conditions of Approval for all 3 pending proposals at a minimum.

Studebaker, Loynes and 2nd are clearly Coastal Access routes as they carry the highest number of boats, watercraft, surfers and tourists in this town, to and from PCH, and are direct routes to two boat launches. At least 5 intersections fall to LOS F or worse . PCH and 2nd peaks during the summer as the busiest intersection in all of LA County on several occasions. Adequate mitigation remains necessary, specified, designed, ignored and unfunded , we look to you for help in this area.

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An attempt to co-ordinate the lights with CALTRANS at 2nd and PCH is now over 10 years old. It is entirely possible that the promised signal co-ordination by this applicant will suffer a similar fate. We request as a Condition of Approval that these improvements be in place before this project proceeds as they may also languish as a deferred mitigation which is promised but then delayed to some uncertain future date , along with many others in this area.

The City recognized these present and projected traffic concerns in the 1981 SEADIP findings and thus scaled back the proposed traffic load by zoning in low traffic impact uses. By 1991, density had increased far beyond design parameters as improvements remained proposed but unfunded. A 1991 update of our transportation element specified grade separations at 2nd and PCH, 7th and PCH and at the traffic circle. A 16 % Business license tax increase was levied for funding but has yet to be applied as promised.. Many LOS E or LOS F, or worse, intersections remain dangerously oversaturated in a town that claims to desire or allow nothing worse than LOS D congestion. The majority of the over 6000 petitioners opposed to this project cite traffic and Wetlands restoration as their prime concern , and the choke points on and around PCH are focal to the problem.

Properly designed and effective mitigation should be shared by all applicants in the area , the City and the State before any new permits issue. The SR22 ramps must be doubled and the Studebaker over 7th bridge widened. The entrance into College Park East and West should be signalized. Loynes Drive must be placed upon piers and permanently leveled and properly drained. Grade separations should be

COASTAL COMMISSION

prioritized and incoming density and traffic impact should be modest.

The aggregate pull through affect of the 5000 new condominiums downtown will have a significant negative impact on the area and must be designed into the mitigation as well. Independent experts believe the Traffic impact analysis here was far too modest and the traffic count estimations are modestly understated . The widely rumored closure of the original Signal Hill Home Depot, should this one open, is not factored into the traffic figures either. The overall negative impact upon Coastal access is irrefutable.

7) WE REMAIN SERIOUSLY CONCERNED THAT THE FOLLOWING CALIFORNIA COASTAL ACT PROVISIONS HAVE NOT BEEN ADEQUATELY COMPLIED WITH.

A proper memorandum further analyzing each Coastal Statute cited will be appended to this Appeal prior to adjudication with your leave. The following analysis presumes that the AES cooling water booms and screens are simply relocated Eastward towards the rear of this lot on at least one, but hopefully two sides, and /or that simple under the bridge footpath improvements leading to the existing sidewalks on the West side of Studebaker or either side of Loynes are installed.

- a) CCA@30220 This parcel is a Coastal area suited to water-oriented activities when studied under a reasonable range of alternatives which remain absent from the FDEIR. Opportunities for Ocean , aquaculture and Wetlands related activities have been studied for

COASTAL COMMISSION

over a decade and are worthy of protection and appropriate zoning or CUP restrictions.

- b) CCA@30221 The present and foreseeable demand for Ocean and Wetlands related recreational use in this area exceeds supply from the standpoint of berths, moorings launches, storage and parking. This is a good place for Wetlands ecotourists to park away from the Estuary without carving out public access parking in a ESHA across the street.
- c) CCA@30222 Priority over general commercial development shall be afforded to unique parcels such as this. An Ocean accessible mega box retailer is neither Coastal Dependent nor Coastal Related. A mega box retailer can be built anywhere, but parcels adjacent to the ocean on two sides must serve a coastal need or be prioritized for ocean related use. A mariculture or marine biology extension campus or lab, or a use related to the small boat launching potential possible through docks, or an Ocean or Estuary related use, is far as more logical for this parcel and is practical and practicable.
- d) CCA@30222.5 requires protection and priority of these aforementioned potential uses as environmentally superior alternatives. This developer carried favor by threatening the adjacent communities with a 24 hour truck center, with Ocean access, as if a Coastal permit to spot zone a new Wetlands adjacent warehouse district 300 feet away from a Million dollar home and a mere 100 feet from an ESHA, with the Ocean on two sides, was a virtual certainty. The applicant still contends that this is a reasonable alternative. We look

COASTAL COMMISSION

to you for guidance as whether these ideas are harmful rather than protective of our Coastal resources.

Also, Studebaker Road is not a planned, designed or zoned commercial corridor. It does not even have sidewalks or storm drains. This operator should locate inland in a property designed and planned commercial zone. This unique parcel could be used in a manner far more in keeping with our entire Coastal Act. Again, this may be the first water accessible from 2 sides Home Depot style operation in the history of America and remains highly illogical. A far better use exists for this parcel.

- e) CCA@30230 requires marine resources shall be enhanced and restored. The desalination plant East of this parcel is in keeping with this legislative intent, where as a huge, overly dense building materials warehouse is illogically juxtaposed to an emerging environmentally centered, minimally intrusive planning theme for the general area . Please consider the previous concerns, unmitigated negative impacts and improperly deferred conditions of approval as evidence of inadequate compliance with this statute.

- f) CCA@30240 Mandates that ESHA's(Environmentally Sensitive Habitat Areas) shall be protected against significant disruptions . The FDEIR oppositional file contains the qualified opinions of many Environmental leaders and experts who cite numerous reasons why this is the wrong place for this lessee due to significant disruptions. The LCWSG SEADIP update panel concluded similarly and thus recommended no heavy


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Industrial or Commercial zoning in or around the Wetlands. Please look to the perimeter of the Bolsa Chica Wetlands for an example of prudent, low impact, reasonable urban planning which does not significantly degrade an adjacent ESHA and which is compatible with the synergistic continuance of a habitat and recreational area . Single family homes enhance the laudable restoration goal . Low impact light retail and mixed use of modest proportion blends well with the goal of this statute on a variety of grounds We hope that the pattern of land uses seen adjacent to the intersection of PCH and Warner Ave .,and North-East of the Bolsa estuary, will serve as precedent here as well . The Wetlands restoration theme in this area is now approaching 4 decades . This is the wrong place for a huge concrete tilt-up zoned Heavy Commercial due to the significant resource values in the area and incompatibility with the surrounding neighborhoods and infrastructure.

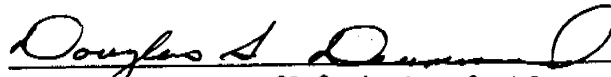
- g) CCA@ 30250 States that new commercial development shall be located adjacent to, or close to, similar type uses . The closest Mega Box retailer is miles away..... where we hope someday to patronize a Long Beach based Home Depot.
- h) CCA @ 30255 States that Coastal-dependent Developments shall have priority over other developments such as this. Coastal –related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. This proposal is neither. Originally a coastal related use existed a future dependent or related use should be prioritized.


COASTAL COMMISSION

Given that these Coastal Development permits were not even Agendized and voted on by Council 10-3-06, and that a change of the land use element of the LCP has been attempted without a full Chapter 3 policy review and analysis, we respectfully ask the Commission to find that our appeals raise substantial issues which warrant Denial of these permits. Please carefully review all of our concerns and urge our City to consider submitting an LCP amendment fully consistent with all of the protections and requirements of our Coastal Act.


A. STEPHANIE LOFGREN 90 LONG BEACH LAW INC.

Respectfully Submitted,
Thank You


DOUGLAS S. DRUMMOND


THOMAS MARCHESE J.D.
562 598-1190

THOMAS MARCHESE J.D. , Founder of The Los Cerritos Wetlands 'SEADIP update' Study Group, Chair appointed successor Chair, Past acting President, Vice President, legal liaison and political affairs Officer for the adjacent University Park Estates Neighborhood Association (www.UPENA-LB.com) and Commercial and Residential developer with our former City Engineer responsible for SEADIP. Tom Marchese.(City of LB 1950-78).

COASTAL COMMISSION

"A"

• GROUND FOR APPEAL OF HOME DEPOT CDP - MLN [10-30-06]

The Coastal Development Permit approval by the City of Long Beach does not conform to the standards set forth in the City's certified local coastal program.

Years ago, without a comprehensive Coastal Act policy analysis, the subject property was designated in the SEADIP plan as industrial. The designation was certified as a part of the City's LUP and its implementing ordinances (the full LCP) because, to use the language in the SEADIP ordinance, "This area is fully developed in accordance with the provisions of the MG zone." In other words, the designation simply recognized the existing use.

The approved project is not industrial. The LCP defines "industrial" in the City's Zoning Ordinance at 21.15.1460 as follows:

"Industrial" means a category of land use comprised of those activities necessary to convert natural resources into finished products. These activities include all resource extracting, resource processing, manufacturing, assembling, storage, transshipping and wholesaling that precede the arrival of goods at a retail land use."
(Ord. C-6533 § 1 (part), 1988).

The project the City approved is described in its findings as a Home Depot design and garden center, a restaurant and commercial retail buildings. These are commercial retail trade facilities and are not "industrial" uses.

Although the Land Use Plan designation is "industrial," under some circumstances the zoning ordinance does permit some commercial retail trade uses in an industrial zone pursuant to a conditional use permit. Those circumstances are not present in this case. Section 7 of Table 33-2, that appears in Chapter 21.33 of the Zoning Ordinance, allows Retail Trade uses in an Industrial District, subject to the issuance of a conditional use permit, if primarily "these uses are intended to serve nearby industries and employees, and the retail's proximity will provide convenience with minimal impact on the retail operations."

In short, unless the uses proposed are intended to serve nearby industries and will have a minimal impact on other retail operations, they are inconsistent with the certified LCP. The City's findings, without evidence or any basis in fact that the project will primarily serve nearby industrial uses, simply asserts that the proposed project will "Provide a conveniently located commercial retail center that includes a home improvement store as well as other retail center amenities that serve the needs of local residents, commercial and industrial developers, businesses and employers in south Long Beach."

Under the circumstances, this appears to be an effort to change the land use designation (LUP) and implementing zoning without conducting the required Chapter Three Coastal Act analysis. Due to the strategic location of the property in the SEADIP area, the significant developments that have occurred since the early 1980s when the LCP was originally certified, and the planning process that is now going on for the area, such a change should not occur without a Coastal Act policy review pursuant to an LCP amendment application.

COASTAL COMMISSION
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EXHIBIT # 12
PAGE 1 OF 2

Even if the proposed uses were consistent with LCP requirements, they fail to meet the LCP's Conditional Use Permit requirements for industrial uses.

City Zoning Ordinance 21.52.410 provides in part:

“Certain industrial uses identified in Chapter 21.33 (Industrial Uses) are subject to conditional use permit review and approval. In addition to the standard considerations and findings required to approve a conditional use permit, the following additional considerations and findings shall be made:

A. The proposed use, and the siting and arrangement of that use on the property, will not adversely affect surrounding uses nor pose adverse health risks to persons working and living in the surrounding area. . .

C. Truck traffic and loading activities associated with the business will not adversely impact surrounding residential neighborhoods.”

(Ord. C-7360 § 9, 1995; Ord. C-6533 § 1 (part), 1988).

The City's findings do not adequately address the impact of the project on the Los Cerritos Wetland, a major natural resource that is immediately across the street from the project site. In addition, rather than finding that the activity associated with the businesses to be conducted on the site will not adversely impact surrounding residential neighborhoods, the City adopted a resolution that there were overriding considerations while acknowledging that some environmental impacts could not be mitigated fully.

The LCP requires that any development provide a minimum of thirty percent of the site be developed and maintained as usable open space. Admittedly, this requirement is not met. The applicant proposed, and the City allowed, a substantial amount of the required open space to be provided elsewhere out of the Coastal Zone. The LCP does not provide for offsite transfers. It should be noted that the parcel is located between two bodies of water, both of which have significant resource value.

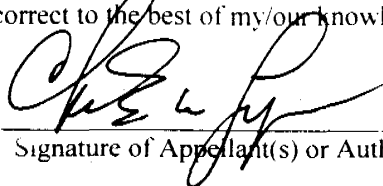
The appellants believe that the City should acknowledge the significance of its own Local Coastal Program. The request of the applicant for a Coastal Development Permit did not appear on the City Council agenda for the meeting in which the City Council approved this project. In addition, the City staff's written recommendation to the Council failed to list approval of the Coastal Development Permit as one of the recommended actions. Instead, in the body of the staff report mention is made of the fact that a Coastal Development Permit will be required.

The Commission should find that the appeals raise substantial issues, deny the coastal development permit request and after a careful review, encourage the City to consider submitting an LCP amendment consistent with the requirements of the Coastal Act.

SECTION V. Certification

Charles Legeman

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

COASTAL COMMISSION

EXHIBIT # 12

PAGE 2 OF 2

Date: November 01, 2006

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. The Home Depot Project proposes to re-stripe Studebaker Road into three lanes/both directions. Implementation of such re-striping would eliminate any possibility for bike lanes (as proposed by the City of Long Beach) on this direct route to the beach or the wetlands. Though no formal bike lanes exist on this road at present, the road's wide right hand lane currently provides room for bicyclists. There is no other north/south direction arterial road in Long Beach that provides access to the beach area without the interference of strenuous hills, or dangerous multi-road intersections such as the PCH, Bellflower, Seventh Street intersection or the Traffic Circle. If Studebaker Road becomes inaccessible as a bike route, East Long Beach Residents would have to traverse to Willow or Spring Streets (for many residents, this would be miles out of their way) in order to access the San Gabriel River Bike Path which would be a safe route to Seal Beach. However, those wishing to go to beaches in Long Beach, would not have a feasible, safe bike route. In addition, access to the wetlands will be possible only by car. (*See Attached Bike Route Map.)

2. Permitting a Home Depot to be built within the coastal zone, adjacent to protected wetlands, is unprecedented in Southern California. Because Home Depot stores are repositories for pesticides and other hazardous materials, potential for spillage and impact to Los Cerritos Wetlands, a mere 200 feet from the proposed site, could be disastrous. Couple this with the fact that in July of 2005, Home Depot received a grand jury subpoena from the United States Attorney's Office in Los Angeles, California, with regard to the "handling, storage and disposal of hazardous waste" for a number of Home Depot locations in Los Angeles County. Home Depot's long history of hazardous waste disposal problems around the United States is well documented. Placement of a Home Depot within the coastal zone, so close to Los Cerritos wetlands, could cause irreversible damages to this fragile environment.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

Mary Beth Mashburn

The information and facts stated above are correct to the best of my/our knowledge.

Mary Beth Mashburn
Signature of Appellant(s) or Authorized Agent

Date:

November 1, 2006

COASTAL COMMISSION

AS-LOB-06-400

EXHIBIT # 13

PAGE 1 OF 1

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

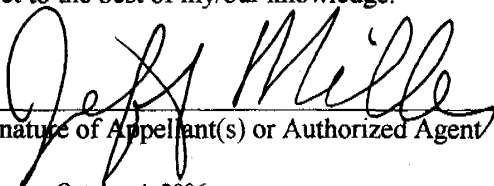
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The EIR for this project is incomplete and contains inaccuracies. Traffic studies within the EIR are incomplete and contradictory. The environmental impacts to the adjacent wetlands which would be directly caused by increased traffic and parked automobiles are therefore understated. The EIR does not correctly state the effect on the wetlands from a possible spill of hazardous materials. There are documented spills, contamination, and fires at other Home Depot sites. The detrimental environmental effects of loose trash and litter, merchandise stored and vended outdoors are not addressed. Any traffic mitigation would infringe on open space critical to the wetlands.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: October 4, 2006

COASTAL COMMISSION
A5-L03-06-400

EXHIBIT # 14
PAGE 1 OF 1

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

DEVELOPER PLANS TO RE-STRIP STUBBAKER ROAD TO ALLOW
3 LANES ON EACH SIDE. THIS WILL PREVENT ACCESS TO
PEDESTRIANS, JOGGERS & BICYCLE RIDERS IN AN AREA
WHICH INCLUDES WETLANDS & WATERWAYS. THERE IS
CURRENTLY 3 1/2 MILES OF BIKE LANES ON STUBBAKER.
THE SOUTHERN SECTION (APPROX 1 MILE) HAS YET TO BE
COMPLETED. THE SHOULDER IS USED NOW BY BICYCLE
RIDERS; THE ER WAS INADEQUATE IN ADDRESSING THIS.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date 10/30/06

COASTAL COMMISSION
A5-L03-06-400

EXHIBIT # 15

PAGE 1 OF 1

Dear Commissioners,

We have attached certain sections of the Local Coastal Plan (LCP) as it applies to Southeast Area Development and Improvement Plan (SEADIP). They are attached as an addendum and are used in reference to the specific failures of the City of Long Beach (the City) and developers to comply with the LCP. THE LCP requires development of the subject area must be comprehensive and integrated with the balance sought between the issues of land use, density, traffic, environmental issues and physical impacts...

#1. LCP – Page III-S-5 Paragraph 1– Failure to provide a comprehensive and integrated development plan.

The General Plan Update was in process until May 2005, when it appears political influence from Home depot caused the suspension of the update meetings. This allowed Home Depot to proceed as an effectively spot-zoned project with a commercial use in an area specifically designated as an industrial area. The use of the **Conditional Use Permit** approval of the project is effectively a zoning change from industrial to commercial.

#2. LCP – Page III-S-6 Paragraph 8– Failure to adequately address wildlife protection and preservation of unique natural habitat.

The City approved a variance that greatly reduced the required 30% open space for development of this site. LSA lead agency has found evidence of nesting for burrowing owls, a designated “candidate” species. The City requires that they be monitored during the nesting season. Then afterwards, the developer plans to pave the entire site for parking, with no sanctuary for the birds.

The design for this store includes a 40 Foot Glass Wall entry, which stands in the flyway for thousands of migratory birds and is a death sentence for many of these birds.

LSA and the City Planning Department gave no consideration to the disrupting impact that halide lighting has on the wetlands, its food chain, and its endangered species. Intelligent planning would have required a more environmentally friendly LED lighting system.

Home Depot is planning on attaching a new sewer line under the Loynes Bridge, which is above the Los Cerritos Wetlands Channel. The Loynes Bridge is located near the Newport-Inglewood fault as well as a City Dump Site. The negative impact from a high-probability sewer spill in the Wetlands Channel adds pollution to waterways, wildlife and plants. Access under the bridge by boats will be impaired by the attached sewer line.

#3. LCP – Page III-S-6 Paragraph 7– Failure to adequately mitigate traffic the proposed development will generate.

The City approved variance allows Home Depot to develop a prototype Home Depot store and garden center over 140,000 sq. ft. with additional 18,000 sq ft. of retail space. This size of a development grossly impacts the traffic.

The City approved plan to re-stripe with 3 lanes both directions will leave no room for alternative transportation, i.e. bicycle paths or emergency lanes for vehicles.

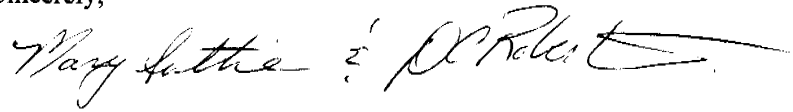
COASTAL COMMISSION
AS-LOB-06-400

EXHIBIT # 16
PAGE 1 OF 6

Cut through traffic for residential areas immediately affected including University Park Estates, were not addressed. One major cut through street Silvera Avenue off 7th Street passes directly in front of Kettering Elementary School. No consideration was given to the effect of this traffic. 7th Street is the beginning of freeway access to the 405 Fwy, 22 Fwy and 605 Fwy. There will be cut through traffic.

In summary in accordance with SEADIP, the City of Long Beach is chasing tax dollars and grossly disregarding the Local Coastal Plan on record. Please deny this project or suspend it until such time the City of Long Beach develops and provides a Comprehensive and Integrated Plan and Update to the California Coastal Commission.

Sincerely,



Mary Suttie and David Robertson

COASTAL COMMISSION

EXHIBIT # 16
PAGE 2 OF 4

SEADIP

The South East Area Development and Improvement Plan (SEADIP) was the first segment of the Long Beach Coastal Zone to be systematically planned and zoned according to policies and concerns later enunciated by the California Coastal Act. Having been adopted just prior to the commencement of work on the Long Beach LCP, it was approved in total by the Advisory Committee for inclusion in the Local Coastal Program. At the local hearings of this LCP, it was directed that the Los Angeles County portion of SEADIP be removed from this LCP until the boundaries of the wetlands could be determined. At the State Commission hearings, parcel 11b was also deleted from this submittal.

The SEADIP program was adopted by the Long Beach City Council in 1977 as a Specific Plan under California law, as an amendment to the then current general plan. A planned development ordinance was also adopted which regulates the properties. The plan and ordinance are contained in the document entitled SEADIP - A Specific Plan for Implementation, dated April, 1977. This document is adopted by reference as an integral part of the Long Beach Local Coastal Program. (see footnote on Page III-S-3).

To facilitate the reader's reference, a brief summary of the SEADIP planning goals are reproduced here (taken from the Preface of the above cited document) together with the adopted plan and a table of land uses.

The South East Area Development and Improvement Plan embraces the last large area of the City of Long Beach that is not yet fully developed. Some of the choicest sites have already been developed, but without the benefit of an overall plan for the entire 1,500-acre section. It is the purpose of this document to present an integrated specific plan for the continuing development of this important area of the City.

SEADIP enjoys significant locational advantages. It lies near the mouth of the San Gabriel River, and much of the area has direct access to waterways leading to the ocean. Although the area does not border on ocean beaches, it is within bicycle distance of some of the finest beaches along the West Coast. The area surrounded by high-value residential communities creating a very strong market within the area itself for quality housing. It enjoys good high-way access to most of the Los Angeles-Basin, with Interstate 605 and 405 intersecting to the northeast: State Route 1 (Pacific Coast Highway) passes through this area.

COASTAL COMMISSION

EXHIBIT # 16
PAGE 3 OF 6

Open space and the related pedestrian and bicycle trails, are designed to thread through the entire area integrating each of the separate developments into a total community.

The residential neighborhoods are proposed to be developed to an "R-1" equivalent density. The word "equivalent" is use because although the overall density will approximate that of "R-1" zoning, the actual form of development proposed is far different from the typical "R-1" neighborhood of detached homes on 6,000 square foot lots. Developers and their architects will be given considerable flexibility to group housing units in various ways to leave important natural amenities undeveloped to provide for efficient circulation and utility systems, and to create an open community atmosphere. This "planned unit development" concept (commonly known as "PUD") is not new in Southern California but SEADIP represents the first use of this approach in Long Beach.

In summary, SEADIP should bring to Long Beach from 2,900 new homes housing approximately 7,245 persons, 86 acres of commercial and light industrial uses and wind up to approximately 3,500 persons, and an annual increase in tax revenues which will exceed the average annual increase in public service costs by some \$8.4 million. *Most importantly, SEADIP should create within Long Beach a totally new community of homes and work places which will set a new standard for the style and quality of life which this City can provide its people.

Recommendations in this report for amending the 1961 Long Beach General plan and adopting a Specific Plan to regulate development in the southeast sector of the City are derived from an extensive citizen-Planning Department interaction program. Basic changes in the existing General Plan result from the application of the following concepts:

1. Development of the subject area must be comprehensive and integrated, with the balance sought between the issues of land use, density, traffic, environmental issues, and physical impacts.
2. Although a variety of housing types architectural styles, densities, and clustering patterns are suggested, the basic concept for development is to promote single-family housing.
3. A density pattern of 7.26 dwelling units per gross acre is produced when the subdivision standard of 6,000 square feet per lot is applied in Long Beach; this density is the standard of development for the area.

*Pre-Jarvis estimate

COASTAL COMMISSION

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4. Higher densities are warranted only when supported by amenities provided to the public without costs, adequate open space is preserved, participation in an internal bicycle path and pedestrian trail system is guaranteed, and private streets are utilized to remove circulation burdens from public thoroughfares.
5. A "Naples-like" community concept is required, following in conceptual form the patterns existing on Naples Island in Long Beach, with orientation of homes toward open space, greenbelts, water, or significant views. Further, access to waterways and public areas is necessary, and a limitation of building heights to two stories is required.
6. Fiscal controls shall be exerted so that public costs for supporting developments do not create a significant imbalance in public finances; revenue is to be maximized by selecting the highest and the best uses consistent with environmental standards and low service costs.
7. Traffic considerations include limiting access to major streets, improved local circulation, preventing streets or circulation patterns from disrupting existing neighborhoods, improving traffic flow on Pacific Coast Highway and Studebaker Road and controlling the number of dwelling units so as to minimize traffic impact.
8. Environmental considerations of special significance include seismic safety, water protection, problems of uncontrolled landfills, methane gas generated in landfill, wildlife protection, the impact of traffic, preserving unique natural habitats, and the requirement of landfill from many vacant areas.

ADDED BY THIS LCP

9. Eighty new slips (one vote per slip) shall be allowed in the Costa Del Sol development. Marina Pacifica I-B shall be allowed to 255 new slips (one boat per slip). Development on Lot 31 of Tract No. 31253 shall be allowed to 15 new slips, and the Long Beach Marina shall be permitted a reasonable expansion, but not to exceed 10% additional slips (one boat per slip). The boat slips in Marina Pacifica I-B and Costa Del Sol shall be constructed only after review of a total slip development plan by the Planning Commission based on environmental considerations. The boat slips shall be restricted to use by actual residents of those developments. Marina Pacifica I-A and B Costa Del Sol developments shall be conspicuously posted for public access to waterfront walkways.

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urban runoff. The whole facility of about twenty acres of water and twenty acres of perimeter land is a regional facility, attracting out-of-City users on hot summer weekends, and yet it lies closely the within well-established local neighborhoods. Any degradation of quality of the manmade and natural features of this facility tends to capitalize a dissociation of regional and local patronage which in turn tends towards further degradation. This RMP aims to upgrade the whole facility while keeping it opened and unfenced for aesthetic, swimming and climbing enjoyment both by visitors and by local residents so that its quality will remain upgraded. Water quality will be improved by urban runoff control and scientifically determined tidal gate regiments. Structures, equipment and landscaping will be improved and increased. The north bank area will be made more scenic and useful to local uses by erosion control and landscaping, and possibly by the addition of two acres of a grassed and shaded picnic area. Public health will be guarded by frequent testing and posting of bilingual warnings during hazardous conditions.

Los Cerritos Wetlands is a tidelands mudflat and marsh lying in a Los Angeles County "island" which is enclosed within the Long Beach City boundaries, and is included in the SEADIP Specific Plan of Long Beach. This Wetlands is an environmentally sensitive area by this RMP; a significant ecological area in the Los Angeles County General Plan; a lagoon to be protected in the Coastal Plan of 1975; a viable wetland according to the Department of Fish and Game; an essential bird feeding area as designated by the National Wildlife Service; the habitat of species listed in the Endangered Species Act; and an environment subject to the Basic Wetland Protection Policy of the State Resources Agency. In view of the delicate ecological sensitivity of Los Cerritos Wetlands to any human disturbance, this RMP calls for a strong set of implementing actions which protect and preserve this area as it is, postponing any enlargements and restorations (such as are permitted in the SEADIP plan) until certain scientific, economic and other studies have been completed. These studies are aimed to answer critical questions concerning the irreversibility of the ecosystem to earth cutting and filling; concerning the ecological feasibility of reconfiguration and restoration projects; and concerning the boundaries of the ecologically sensitive area with attendant rights and responsibilities of private, public and governmental parties.

The possibility of a declaration of the Loss Cerritos Wetlands as a "Sensitive Coastal Resource Area" is an alternative under consideration.

Sims Pond is a seasonal ~~freshwater~~ pool and marsh of about eight acres. It is valuable as the resting, feeding and nesting site for local and migratory birds. This RMP provides for the ~~preservation~~ of a portion of the pool, marsh

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