

Addendum to Appeal (APL19-009) regarding File # 20-0015, Public Hearing before Long Beach City Council, on 1/7/2020, *Los Cerritos Wetlands Task Force, Sierra Club*

Dear Long Beach City Council,

The following points should be considered regarding the 300 Studebaker Industrial Park Project and related permits. We ask that you uphold our appeal and/or postpone the public hearing on this item until LBDS provides complete and accurate information. We also recommend that an EIR be required due to the impacts of the proposed development.

1. Impacts to environment and public health and safety

- a) The environmental impacts of the proposed Los Cerritos Wetlands Restoration and Oil Consolidation Project have not been included in the analysis of the cumulative impacts of proposed developments. The Los Cerritos Wetlands Restoration and Oil Consolidation Project will significantly increase air and water pollution and the likelihood of seismic activity and events/accidents impacting the environment and public safety.
- b) The project is likely to adversely impact schools, residences, and wildlife habitat due to the “minimum” standards required for developments located in a General Industrial (GI) district. “The General Industrial (IG) district is considered the City’s ‘industrial sanctuary’ district where a wide range of industries that may not be desirable in other districts may locate.... The IG district is intended to promote an ‘industrial sanctuary’ where land is preserved for industry and manufacturing, and where existing industries are protected from non-industrial users that may object to the operating characteristics of industry. Performance standards still must be met, but the development standards are the minimum necessary to assure safe, functional, and environmentally-sound activities.”
- c) Per CCR2745.10(a)(6) Off Site Consequence Analysis is needed regarding risks to public “if changes in processes, quantities stored or handled, or any other aspect of the stationary source that might reasonably be expected to increase or decrease risks to public.” Further analysis is required regarding risks to public due to materials being transported and stored at site and also due to project’s location adjacent to AES facilities. As proposed by AES regarding the proposed Home Depot Design Center, project applicants should build that wall!
- d) The LCWA has discovered that there may be hazardous materials cleanup required on sites to be conveyed to them or to another public agency. Before the public assumes title to and responsibility for risks to the public and to the environment in connection with this transfer of title, the current owners must be required to do the clean up of any hazardous wastes.

2. Biological Resources and Public Open Space

- a) Project proponents fail to consider that, although degraded, the property has sustained and continues to provide biological resources, including habitat for special-status species. LBDS staff states that “The lack of potential for special-status wildlife species occurrence is based on low habitat quality in disturbed and developed areas of the site, lack of native vegetation, isolation from other suitable habitat due to developed land uses surrounding the site, and high levels of human disturbance.” However, in 2007, a survey of the property by a biologist representing the proponents of the proposed Home Depot Design Center stated, “Several types of birds, for example, have been observed at the site (e.g., humming birds, doves, gulls, egrets, herons, killdeer, swallows, black phoebes, pigeons, sparrows, starlings, crows, falcons and hawks). Additionally, the project site has earthen berms that provide potential habitat for burrowing owls, and there have been reports of herons and egrets nesting on the tops of the oil tanks.... the potential adverse impacts to biological resources include loss of habitat (burrowing owls), elimination of a small wetland in an asphalt-lined drainage channel, reduced water quality from site drainage, lighting impacts during the nighttime, and increased human presence and automobile traffic.”
- b) The property is a wildlife corridor between the San Gabriel River and existing open spaces, including the Los Cerritos Wetlands, and other natural areas, including parks and the Colorado Lagoon. The existing fences do not prevent animals, including coyotes, from entering the property, as driveways and the channel remain accessible. Existing wildlife corridor would be enhanced by removing fencing, and, as has been proposed by the LCWA, constructing a wildlife overpass across Studebaker Ave. However, the proposed project would permanently reduce the capacity of the site to serve as a wildlife corridor.
- c) The natural habitat areas adjacent to the project site (two tidal channels, the Los Cerritos Channel, the San Gabriel River estuary, and the Los Cerritos Wetlands) would be affected by the proposed development. A full EIR is required by the the Open Space and Recreation Element of the City’s General Plan, adopted by reference as part of the City of Long Beach certified LCP, states (Policies: Open Space Node – Alamitos Bay & Recreation Park): “Conserve and Enhance Alamitos Bay – Recreation Park open space node by: e) Improving the quality of bay waters by controlling all forms of possible pollution, both in bay and in tributaries upstream.” i) Maintaining close surveillance over all proposed projects in the bay area through the environmental review process.”
- d) Wetlands Delineation has not been fully addressed. “Even degraded areas are protected because of the potential they have for returning to natural conditions.” (Ruling for Bolsa Chica Land Trust v. Superior Court (1999). The entire project site must be evaluated for its potential to become and/or support wetlands and wildlife. Project site includes open land, including berms, swales, basins. Existing pavement can be removed.

- e) Arbitrary determination re protected sites, eligible for restoration. Unlike areas to be built upon, the parcels to be transferred for public use are considered eligible for restoration, “parcels situated west of Studebaker Road (APNs 7237-018-001, 7237- 017-007, -008, -009) are currently vacant; undeveloped; and within the Coastal Habitat, Wetlands, and Recreation land use designation under the Southeast Area Specific Plan (SEASP) for the City of Long Beach (SEASP, Long Beach 2017)<sup>1</sup>. Specifically, SEASP classifies the parcels west of Studebaker Road as “undeveloped upland.”The project involves planting of an assortment of native grasses and tree species consistent with the Los Cerritos Wetlands Authority recommendations, including low growing grasses along street frontage on these parcels. Ironically, in approving the Los Cerritos Wetlands Restoration and Oil Consolidation Project, the City acknowledges that far more degraded sites within the Los Cerritos Wetlands (polluted by 100 years of oil drilling), can be successfully restored as a salt marsh, wetlands, wildlife habitat, and public open space for recreation.
- f) Conclusions of No Adverse Affects by Rincon cannot be supported due to lack of evidence. Additional surveys are required due to seasonal changes in habitat and wildlife populations. After a single field reconnaissance survey was conducted by Rincon Senior Biologist Megan Minter on April 1, 2019. Rincon concluded that, “The project would not have any substantial adverse effect on any candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.....the project would not have any substantial adverse effect on any riparian habitat or sensitive vegetation communities.”
- g) The proposed mitigation for nesting sites and birds is inadequate. Although a survey of nesting sites on the property is required before construction, none is mandated after that, either during construction or once the business is operational: “If no nesting birds are observed during pre-construction surveys, no further actions would be necessary.” Bird surveys should also identify and assess the project’s impacts on nesting sites in adjoining areas, including public right of ways, channels, and adjacent open spaces. The proposed buffer zones are too small. There is no long-term plan to provide additional nesting sites or to maintain existing ones on the property. The negative effects of lighting and glare have not been adequately mitigated. All of the glass on the building’s facade should be “bird safe, not just 65%. LED and truck headlights will affect animals and plants in the Los Cerritos Wetlands across Studebaker from the 24/7 facility and associated truck traffic.

### 3. Tribal Cultural Resources

- a) California Native American Tribes Traditionally and Culturally Affiliated with the Project Area may not have been notified regarding Consultation Pursuant to Public Resources Code Section 21080.3.1 Only six of the affected tribes listed by the NAHC were contacted by Rincon.

b) The statement that the property is not a Sacred Site is incorrect as it lies within the boundaries of Puvungna, listed as a Sacred Site by the NAHC.

#### 4. California Coastal Act/Local Coastal Plan/CEQA

a) The project is not a Coastal dependent development. Due to limited industrial sites in the Coastal Zone (other than the Port of LB), the property must be reserved for coastal dependent industries/uses.

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c) Coastal Access will be impeded by additional traffic congestion. The Coastal Act requires that development shall not interfere with the public's ability to access to the coast. Section 30211 of the Coastal Act states: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization. Congested roadways interfere with public access. The Studebaker Road/Second Street corridor, where the proposed development is located, provides a direct vehicular link between the Southern California freeway system, specifically I-405 and I-605, and Pacific Coast Highway (State Highway One). Pacific Coast Highway provides access to all the beaches in Orange County. Second Street provides access to the coastal recreation areas in the City of Long Beach. Therefore, the traffic congestion that occurs on Studebaker Road and Second Street can directly affect the public's ability to access the coast.

d) The project does not conform to the Local Coastal Plan. The potential cumulative impacts from increased industrial development on surrounding wetlands should be addressed through a comprehensive update of the LCP and not through an individual permit action. The potential adverse cumulative impacts to biological resources resulting from the development of SEADIP Subarea 19 have not been adequately addressed, and therefore the project cannot be found to be consistent with the open space policies of the certified LCP.

e) Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The coastal development permit must be denied because all adverse impacts have not been minimized and there are feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Feasible alternatives include a wide array of future coastal dependent industrial uses.

- f) All reasonable alternatives must be fully considered, including a smaller project or alternative site. “CEQA does not authorize an agency to proceed with a project that will have significant unmitigated effects on the environment...unless the measures to mitigate those effects are truly unfeasible.”
- g) Abuse of Discretion: Missing and inaccurate info leads to false conclusions invalidating Project Proposal. 21168.5 “Abuse of Discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” An agency fails to proceed “in a manner required by law” when it fails to comply with the information and procedural requirements of CEQA.” “A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process.”