

City of Los Angeles
APPEAL
From Coastal Development Permit Action

CDP Application No.: 10-04 Council District: 11th (Bonin)

TYPE OF ACTION BEING APPEALED: Appeal from Permit Action
 Appeal from Revocation of Permit

DATE OF ACTION BEING APPEALED: March 25, 2015

DEVELOPMENT DESCRIPTION: VENICE DUAL MAIN PROJECT

W.O. SZC11631

COMMUNITY PLAN: _____ District.

Land Use Indicated: _____

TO BE COMPLETED BY APPELLANT - PLEASE TYPE OR PRINT

DEVELOPMENT ADDRESS: Via Marina

City, Zip: Marina del Rey, CA 90292

Between Hurricane Street and Marina Channel entrance

APPLICANT'S NAME: City of Los Angeles Phone _____

Address: _____

City, Zip: _____

APPELLANT'S NAME: Richard Lysle Phone 310-827-8059

Address: 121 Spinnaker Mall

City, Zip: Marina del Rey, CA 90292

NOTICE: All items in this Notice of Appeal must be completely filled out before it can be received and certified by the Clerk. An owner or lessee of the property involved is required to pay an appeal fee equal to one-half of the filing fee for the application.

This is to certify that the application has been inspected by me and has been found to be thorough and complete in every particular.

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I. GROUNDS FOR APPEAL

State fully the specific grounds for this appeal (state if your appeal is from the entire decision or determination, or from elements of the determination, such as some of the conditions imposed; state in detail those elements which you desire to appeal; submit facts and information in support of this appeal)*:

The EIR and related documents are out-of-date.

The EIR and related public documents are incomplete and do not include adequate consideration of the "Beach Route"

See Paragraph I of Attachment.

II. STATEMENT OF FACT

Give a complete statement of the facts upon which the appeal is based*:

See Paragraph II of Attachment.

III. SUMMARY OF ISSUES

Provide a concise summary of the substantial issues(s) raised by the appeal*:

See Paragraph III of the Attachment.

*Note: Use attachments to continue if necessary. Clearly label the continuation as to which question it pertains.

IV. REQUIRED ATTACHMENTS

A. A list of all other persons known by the appellant to have an interest in the matter appealed.

See Section IV of the Attachment.

V. INSTRUCTIONS FOR FILING NOTICE OF APPEAL

A. Notice in writing of the appeal of projects must be received by the **Bureau of Engineering, 1149 S. Broadway, Suite 600, Los Angeles** by 5:00 p.m. on or before the 10th calendar day following the decision being appealed. Such written notice may be either by: (a) delivery of this completed Notice of Appeal, or (b) by other communication *in writing*, such as a telegram, stating the name, address and telephone number of the applicant and appellant, the date and nature of the decision being appealed, the Coastal Development case number and identification of the proposed development.

B. When the appellant utilizes-procedure 1(b) above, he or she must follow-up by transmitting a completed Notice of appeal within five calendar days of initial filing of the appeal.

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APPELLANT'S SIGNATURE

Signed:  _____

Richard Lysle

(Type or Print Name)

Date: 4/5/15 _____

Attachment to Appeal form.

I. GROUNDS FOR APPEAL

1. The Environmental Impact Report is out of date. The documents made available to the public do not include new information of substantial importance.
2. The Environmental Impact Report and related documents are incomplete and conclusory, and they do not include a meaningful and adequately consideration of the “Beach Route” alternative, which will take much less time to complete, will cost much less, will cause less disruption to the environment and will reduce adverse environmental impacts.
3. Appellant incorporates by reference all grounds for appeal mentioned by other residents and interested parties at the public meetings or otherwise communicated to the City.

II. STATEMENT OF FACTS

Applicant is a taxpayer who resides near the proposed project. He has attended public hearings, asked questions and submitted comments.

The Venice Dual Force Main project is a “project” subject to the California Environmental Quality Act (CEQA) as well as other statutes and regulations.

The “Beach Route” alternative, which is favored by the overwhelming majority of citizens attending the October 22, 2014, and the January 21, 2015, presentations, is to construct the line from the V.P.P. at Hurricane Street to the beachfront and then down the Venice Municipal Beach to the entrance to the Marina Channel.

This appeal does not concern the proposed construction south of the Marina Channel entrance, which includes the vicinity of Dockweiler State Beach.

The “cut and cover” method can be used along the beach, installing approximately 40 feet of pipe per day. See section 4.1.1 of the EIR. The cost will be much less. There will be no interference with other utility lines. It will not be necessary to restrict motor vehicle, bicycle and emergency access to the neighborhood.

Since the Draft EIR was prepared in 2005-2006, there have been major changes in the impact of the subject project which are not discussed in subsequent documents available to

the public.

Neither the Draft EIR nor the Final EIR include a meaningful discussion of the “Beach Route” alternative.

III. SUMMARY OF ISSUES

Appellant opposes construction along the “Via Marina Route.” The “Beach Route” is a far better alternative than either the Via Marina Route or the Pacific Avenue Route.

The “Final EIR” and other public documents is seriously out of date. This document was prepared in 2005 or 2006. For example, the “Environmental Impact Analysis” does not discuss the impact of the proposed project in relation to other major projects and proposals in the vicinity of the Via Marina route. Section 1.7 of the “Final EIR” lists 15 nearly projects, but the most recent of which was in 2007. At the present time, there are major projects going through the permitting process or underway in the neighborhood. These projects include:

585 Unit apartment project at Via Marina and Panay Way.

Holiday Harbor Courts, a 5 story mixed use building project which includes a 92 slip marina.

Villa Del Mar, 198 apartment units and 209 boat slips.

Neptune Marina, scheduled to start 4th Q, 2015. 526 apartment units and 161 boat slips.

Marriott Hotel. 5 and 6 story hotel buildings are related structures with restaurants, retail stores and a public park.

Tahiti Marina. 149 apartment units.

Mariner’s Village renovation. 981 apartment units, plus retail and commercial space, on 23 acres at the south end of Via Marina, directly adjacent to the subject project. The only land access to Mariner’s Village is from Via Marina.

At the present time there is street construction on Via Marina in the precise area where the City wants to construct the sewer line.

There has been an approximate doubling of the population of the surrounding area since the Final EIR” was prepared. The traffic situation is much more complex. Gridlock is common now.

As a result of changes in the environmental impact of the proposed project since the “Final EIR” was prepared, there is a substantial increase in the severity of the project’s environmental impact, and the “Beach Route” is a feasible alternative which would greatly lessen the environmental impact of the project.

The EIR and other public documents do not discuss coordination with other projects in the immediate vicinity. The entire Marina Peninsula is surrounded by water on three sides. Via Marina is the main access to this peninsula and is used by both residents and by innumerable tourists and visitors.

Impact on Utility and Service Systems

The “Final EIR” and related, public documents do not include an adequate discussion of the underground utility lines that will be encountered during the proposed tunneling under Via Marina. There are electrical power lines, both DWP and SoCal Ed, under Via Marina. There are water lines (DWP and LA County Waterworks). There are sewer lines. There are underground telephone lines. There are cable TV lines. There are SoCal. Gas lines. The agency proposing this project has not yet called DigAlert (See Govt Code 4216) to learn what utility lines are under Via Marina? All utility lines are underground in this area. If/when these utility lines are encountered under Via Marina, they will need to be re-routed. The new 54" sewer line will not be curved around these other utility lines. The re-routing of these lines will disrupt utility service (telephone, TV, internet, electricity, etc.) to the residents in the neighborhood. When re-locating an electrical power line, it may be best to turn off the power when moving the line. How will these power outages affect the neighbors? Telephone outages? Computer and internet outages?

Tunnel construction will create vibration which may damage the nearby water, sewer and gas lines which are under Via Marina. The water lines under Via Marina are ancient and past their anticipated life. The LA County Waterworks District line runs from Washington Blvd. To Palawan, then down Via Marina. Is the City going to replace this line as a part of the subject project?

The “Final EIR” and related documents does not contain a meaningful and adequate discussion of the pipe and methane gas deposits left over from the 28 oil wells constructed in the early 20th century. These wells were imperfectly abandoned. The “Final Staff Report”, at Page 8, states only that the staff “adjusted the project alignment to avoid known and potential wells.” The details of this adjusted alignment are not included in the public documents. More importantly, there are no good records showing exactly where the abandoned wells are located.

In contrast, the “Beach Route” will not encounter either underground utility lines nor

abandoned oil wells. The beachfront area was underwater prior to construction of the Marina; the Corps of Engineers built the beach when the Marina was built. There was no oil well drilling on what is now the beachfront. There are no utility lines under the beneath, except the existing, 48" sewer line.

Inadequate Emergency Access

Via Marina is the only access route to the eastern portion of the Marina Peninsula. The proposed project will reduce Via Marina from four lanes to two lanes – one lane in each direction – with a “K rail” on each side. Although the EIR does not include an adequate traffic survey, it is inevitable that traffic on Via Marina will be backed up. If / when an emergency vehicle must travel down Via Marina, the cars on Via Marina will not be able to pull to the side of the roadway. An ambulance, fire truck or police vehicle will not be able to travel down Via Marina. Reliance upon the Coast Guard to provide transport to emergency responders (as was suggested by a City representative at the October 22, 2014, meeting) is not realistic.

Although City representatives have said that they have communicated with emergency responders regarding emergency access during construction, inquires directed to these agencies reveal that none of these agencies have any plans in place nor any information about any contacts from the City.

Bicycle Access

California law now requires that motorists give bicycle riders a 4' clearance when passing. With a K rail on each side, the single traffic lane is not wide enough to accommodate both a motor vehicle and a bicycle.

Compliance with Migratory Bird Treaty Act of 1918 and with Calif. Fish & Wildlife Act section 3505.

The trees along Via Marina (a number of which will be removed as a part of the proposed project, are homes to the Great Blue Heron (*Ardea herodias*) and Snowy Egrets (*Egretta thula*). Some trees will be removed. The root systems of other trees will or may be damaged. The EIR and related documents do not include meaningful input from an arborist.

In contrast, construction on the “Beach Route” will not encounter any trees. However, the “Beach Route” does run a close as 200 feet from the protected nesting area of the Least Tern. These birds nest within a fenced area near the beach. They are in residence about 5 months each year. Construction will not affect the Least Tern when these birds are away. According to project documents, “Cut and Cover” construction can install 40 feet of 54”

pipe each day. This construction can be completed when the birds are away.

Cost comparisons

The FAQ (February 2015) prepared by City staff states that the cost of the “Pacific Avenue” route would be \$68 million (in 2008 dollars), compared with \$55 million (in 2008 dollars) for the “Via Marina” route. There is no estimate of the cost of the “Beach Route”. The estimated cost in 2015 dollars is not contained in the public documents relating to the project.

The cost of the Beach Route will be much less because it is less expensive to dig a trench (“cut and cover”) than to tunnel. Under the beach there are no other utility lines with which to deal.

The distance which must be tunneled under the Marina Channel entrance is less if the sewer follows the Beach Route than if it starts under the channel from the end of Via Marina. Using the Beach Route will save both time and money, both during construction and in future maintenance.

The cost comparisons contained in the public documents are flawed and incomplete.

Arguments made by City representatives in response to public inquiries

The City incorrectly claims that the California Supreme Court approved and mandated the Via Marina route. In fact, in Case No. S 210 152, the Supreme Court declined to rule on the matter. The lawsuit brought by the County of Los Angeles (L.A.S.C. Case No. BS 124959 and Court of Appeal Case No. B 236732, 214 Cal.App.4th 643, did not involve any review of the EIR. This litigation dealt only with the interpretation of a statute applicable when one municipality engages in a construction project which extends beyond the boundaries of that municipality.

At the Show-and-Tell type meeting on January 21, 2015, I asked with the City Engineer about the Beach Route alternative. His response was that the primary reason that the City did not want to construct the sewer pipe along the Beach Route was the Beach Route was opposed by wealthy residents with beach front homes. I do not believe that the political connections of a few wealthy political donors is a proper criteria under the CEQA. The beach is a public resource. It should not be looked at as the private playground of wealthy beach front property owners.

Summary and Conclusion

The "Final EIR" and other related public documents are inadequate and conclusory, are out-of-date and do not include adequate discussion of subsequent changes in the community.

The "Final EIR" does not include a meaningful and reasonably complete discussion of the "Beach Route" alternative.

IV. REQUIRED ATTACHMENTS

The applicant is the City of Los Angeles, Department of Public Work, Bureau of Engineering.

Appellant does not know the identities of all of the residents who will be affected by the proposed project.

Respectfully submitted,



Richard Lysle

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