



## Legislation Text

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**San Leandro Shoreline Development Project Environmental Impact Report (EIR) (SCH#2013072011).** Public Hearing To Consider Certification By The City Council Of The San Leandro Shoreline Project EIR As Further Defined Below. The EIR Addresses A Mixed Use Development On A 75-Acre Project Site (52-Acre Site Land Area And 23-Acre Water Area Which Encompasses The San Leandro Marina And Surrounding Properties) That Is Located On Monarch Bay Drive, Between Marina Boulevard And Fairway Drive. The Project Site Consists Of 10 Separate Alameda County Assessor's Parcel Numbers, 79A-475-9-4; 79A-590-1-5; 79A-590-1-7; 79A-590-2; 79A-590-3; 79A-590-4; 79A-590-5; 79A-590-6; 80G-900-1-8; And 80G-900-4-1. Cal-Coast Development, LLC Is The Project Applicant And The City Of San Leandro Is The Property Owner.

### **SUMMARY AND RECOMMENDATIONS**

The City Council is considering certification of the Environmental Impact Report (EIR) prepared for the proposed San Leandro Shoreline Development Project. The Project proposes to redevelop the Shoreline Marina area with a mixed use community of commercial, office, residential and recreational uses. The EIR consists of a separately bound Draft EIR and Final EIR, which examine the potential environmental effects of the proposed development, as well as mitigations to reduce those effects to less than significant whenever feasible. Before taking action on the Project, the City Council must review the EIR and certify that it is adequate and reflects the independent judgement of the City. At a public hearing on June 18, 2015, the Planning Commission reviewed the EIR and recommended certification to the City Council. As discussed below and based on the whole record, staff recommends that the City Council review the EIR, and certify it as adequate under CEQA. Certification is not a Project approval or an assessment of the Project merits; certification occurs before the Project is considered on its merits and determines whether the EIR is adequate.

### **BACKGROUND**

#### **Role of the City Council**

The City prepared an EIR for Project applications that include a General Plan amendment and rezoning, as further described in the staff report for the next agenda item. The City Council is responsible for approval, conditional approval, or denial of the General Plan and zoning applications as submitted or in modified form, and with consideration of recommendations made by the Planning Commission.

Prior to acting on the applications, the City Council must consider certification of the EIR. On June 18, 2015, the Planning Commission recommended certification of the EIR. Certification of an EIR is a finding that the EIR was completed in compliance with CEQA, was considered prior to taking action on the project, and reflects the City's independent judgment and analysis (CEQA Guidelines section 15090).

## **Project Description**

The Project site is 52 acres in land area and 23 acres of water area owned by the City of San Leandro. The Project is a public/private partnership between the City of San Leandro and Cal Coast Companies LLC. The Project includes a variety of components described in detail in Chapter 3, Project Description, of the Draft EIR. The conceptual site plan is shown on Figure 3-3 of the Draft EIR. The salient components include a new 150,000 square foot office campus, a new 200-room hotel, a new conference center, 354 new housing units, 3 new restaurants, and a new parking structure. A variety of public amenities would be installed, including a new approximately 2,500-square-foot community library/community meeting space, an aquatic center/dock, bocce ball courts, outdoor recreational areas, picnic areas, a perched beach, pedestrian piers, two miles of public promenade, a natural shoreline element along the interior of the harbor basin, a pedestrian/bicycle bridge, a boardwalk/lookout pier, several small finger piers, and refurbishment of existing public restrooms on site. Although direction from the San Leandro City Council to staff is to maintain the existing San Leandro Marina for as long as financially feasible, for the purpose of the environmental analysis, the Draft EIR assumes that the harbor masters office, fuel pump/dock, and the 462 existing boat slips in the harbor basin would eventually be removed by the City at such time as safe and navigable boating operations cease to exist. With removal of the boat slips, the harbor would only be open to non-motorized watercraft; the Project includes the construction of a small boat launch, a kayak storage building, and an aeration fountain in the harbor basin to aid in water circulation.

## **Project Objectives**

Pursuant to CEQA Guidelines Section 15124(b), an EIR must identify the objectives sought by the Project. Identifying project objectives also serves as a basis for analyzing alternatives to the proposed Project, as described below under the Alternatives heading. Accordingly, the Project's objectives are listed below, and also included in Chapter 3 of the Draft EIR.

- Build an economically viable and vibrant mixed-use development which provides needed amenities and services to the residents of the City of San Leandro and creates a regional recreational and commercial destination, including:
  - A banquet/conference facility for residents and others to hold large parties such as weddings, graduation parties, quinceneras, and other events in San Leandro. The banquet/conference center is also needed to support tournaments at the Tony Lema/Monarch Bay Golf Course;
  - A limited-service hotel, providing limited food and beverage service to hotel guests and not the general public;
  - Multiple dining options;
  - Housing units responsive to market demands to increase City housing stock of above-moderate income units;
  - Class A office space to attract innovative businesses and quality jobs for the citizens of San Leandro; and
  - An enhanced Library/community building.
- Ensure the Project uses are synergistic and create a regional destination for dining, lodging, entertainment, and recreation.
- Provide recreation opportunities such as bocce ball courts, a small boat launch and public gathering spaces, a 20-foot-wide public promenade including lookout stations, to increase and enhance the public's access to the Bay.
- Provide multiple areas for the public to enjoy scenic views and interact with the San Francisco Bay.
- Enhance connections between San Leandro's shoreline and the San Francisco Bay Trail.
- Remove current blight, including the former Blue Dolphin site pillars and fencing, and the currently fenced former Boatworks site.
- Ensure the redeveloped portion of the San Leandro Shoreline complements existing amenities and provides needed connection between the amenities and current shoreline uses.

- Ensure that development is provided in an environmentally sensitive manner, and promotes the latest trends in energy efficiency.
- Recognize the economic uncertainty of acquiring future funding for needed on-going channel and harbor dredging, the City's existing debt burden related to past harbor improvements, and the City's desire to plan for a successful transition from the existing blighted use to an environmentally and financially sustainable alternative that maintains the public's access to the harbor basin and San Francisco Bay.

### **Project Phasing**

The Project is anticipated to occur over three phases (dependent on market forces), as described below.

#### **Phase 1**

This phase would include the bulk of the development, including construction of the hotel and conference center, three restaurants, office development along Monarch Bay Drive including an 800-space parking structure, 159 multi-family rental units, a mixed-use building and up to 61 condo units on the former Boatworks site, and a new library. This phase would also include removal of several structures, including wood and concrete docks and piers, including the Blue Dolphin Restaurant platform, El Torito Restaurant building, San Leandro Yacht Club building, most of the public/private restrooms and removal of the harbor master's office, fuel pump/dock, and underground storage tank. Phase 1 also includes construction of all infrastructure (streets, sidewalks, lighting, landscaping, pedestrian and bicycle walkway and bridge, etc.) and amenities.

#### **Phase 2**

This phase would include construction of 64 2- to 3-story townhomes on Monarch Bay Drive, 70 homes on Fairway Drive built within the redesigned Marina Golf Course, and removal of golf course concession stands. Five of the tees/holes on the nine-hole Marina Golf Course would be reconfigured in order to accommodate the housing; no tees/holes would be removed.

#### **Phase 3**

This final phase would include the balance of the 150,000 square feet of office space (unless market forces allow it to be absorbed into the proposed Phase 2). The parking structure associated with this office space will already have been built during Phase 1.

The existing Marina Inn building and the Horatio's restaurant building on the site would remain a part of the Project area.

### **Timeline for Project Entitlements**

Numerous entitlements and approvals are necessary prior to Cal Coast's implementation of the project, including the following:

- 1) Certification of the San Leandro Shoreline Development Project EIR;
- 2) General Plan amendment for approximately 12 acres of the project site to Medium Density Residential;
- 3) Re-zoning of approximately 12 acres of the project site to RM-2000(PD), Residential Multi-Family, Planned Development Overlay District and approximately 40 acres to CC(PD) Commercial Community, Planned Development Overlay District;
- 4) Site Plan Review, tentative map, and Planned Development guidelines, plans, and other submittals for the San Leandro Shoreline Development project;
- 5) Development Agreement between the City and Cal Coast which outlines development requirements such as: project phasing and timing of construction; infrastructure requirements and maintenance standards; quality of architecture, tenants, materials and landscaping; lease terms, responsibilities for redevelopment of the boat harbor, public art, and the payment of prevailing wages.

The City will consider the above actions in a two-step process. The first step will be consideration of certification of the EIR and approval of the General Plan Amendment and rezoning (items 1-3 above) based on the current conceptual site

plan. The second step will be consideration of the development permits and development agreement (items 4-5 above) based on design level plans that would be prepared to implement the EIR mitigations and other regulatory requirements that apply to the Project. These regulatory requirements include City building and grading ordinances, as well as permitting from the San Francisco Bay Conservation and Development Commission (BCDC); Army Corps of Engineers; Regional Water Quality Control Board (RWQCB)(San Francisco Region); and California Department of Fish and Wildlife (CDFW).

The Draft EIR, Final EIR, and other project documents may be found on the City of San Leandro website at: <http://www.sanleandro.org/depts/cd/shoreline/>, in the Planning Services Division at City Hall and at the main library at 300 West Estudillo Avenue during normal business hours.

### **Project Location**

The 75-acre project site (52-acre site land area and 23-acre water area which encompasses the San Leandro Marina and surrounding properties) is located on Monarch Bay Drive, between Marina Boulevard and Fairway Drive. The project site consists of 10 separate Alameda County Assessor's Parcel Numbers, 79A-475-9-4; 79A-590-1-5; 79A-590-1-7; 79A-590-2; 79A-590-3; 79A-590-4; 79A-590-5; 79A-590-6; 80G-900-1-8; and 80G-900-4-1. Cal-Coast Development Company is the project applicant and the City of San Leandro is the property owner.

Please refer to Chapter 3 of the Draft EIR document for a complete Project Description.

### **Draft Environmental Impact Report**

The Project requires discretionary approvals as detailed above and therefore is subject to environmental review under the California Environmental Quality Act (CEQA) and its implementing guidelines. According to Section 15121(a) of the CEQA Guidelines, the purpose of an EIR is to:

*Inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.*

In compliance with Section 21080.4 of the California Public Resources Code, the City circulated a Notice of Preparation (NOP) of an EIR for the Project to the Office of Planning and Research (OPR) State Clearinghouse and interested agencies and persons on July 3, 2013. However, as a result of Project revisions described in Chapter 1 of the Draft EIR, the City reissued a NOP on December 11, 2013 for a required 30-day review period. The NOP solicited comments from identified responsible and trustee agencies, as well as interested parties regarding the scope of the Draft EIR. A copy of the reissued NOP is included as Appendix A of the Draft EIR, as well as comments received by the City in response to the NOP.

Following the close of the NOP comment period, and pursuant to the California Environmental Quality Act (CEQA), a Draft EIR was prepared by the City of San Leandro Community Development Department. The Draft EIR was released for public review on December 9, 2014. The required 45-day public comment period on the Draft EIR was extended and ended on February 6, 2015. After the close of the public comment period, all comments that were received (either orally at the January 15, 2015 Planning Commission and January 26, 2015 City Council hearings or in writing) have been responded to in a Final EIR document, as further discussed below.

The Draft EIR and Final EIR documents together comprise the EIR for the project. The Planning Commission and City Council have had an opportunity to review the Draft EIR, all comments the City received on the Draft EIR, and related responses in the Final EIR prior to consideration of certification of the EIR and prior to taking any action on the proposed Project.

### **Scope of the EIR**

The Draft EIR assesses the potential environmental impacts of the San Leandro Shoreline Development Project based on the Conceptual Site Plan in Figure 3-3.

The Draft EIR examined the full range of potential environmental impacts based on the eighteen resource topic areas in Appendix G of the CEQA Guidelines, including but not limited to, the following environmental topics:

- Aesthetics
- Air Quality
- Biological Resources
- Geology, Soils and Seismicity
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services and Recreation
- Transportation and Traffic
- Utilities and Service Systems

The Draft EIR identified a number of impacts as less than significant, as shown in Table 1.1 (revised in the Final EIR). Of particular note is the extended discussion of aesthetics and views, given the waterside location of the project site and the City General Plan designation of a “Significant View” from the Marina towards the Bay (See DEIR Figure 4.1-1). As more fully described in Impact Discussion AES-1 of the Draft EIR, the near-field view (as shown in DEIR Figure 4.1-1) is dominated by views of the boats and large boat covers in the harbor; mid- to far-field views include views to the horizon including Mulford Point, San Francisco Bay, and the distant ridgeline of the Santa Cruz Mountains on clear days. As part of the extended discussion and analysis in the Draft EIR, photo simulations were prepared to provide a general picture of how the proposed Project would affect these views (See DEIR Figures 4.1-5a through 4.1-12b). As discussed in Impact Discussion AES-1 of the DEIR, although these views would be altered by removal of the boat harbor and development of new structures in the Project area, such views would not be adversely affected given that existing views are already partially obstructed by boat masts and covered boat structures in the harbor and existing vegetation. Also, the Project would include multiple opportunities where mid- and far-field views would be available, such as the public promenade, and pedestrian lookouts, which would maximize public views, as well as shoreline access.

The Draft EIR also identified significant but mitigatable impacts, as shown in Table 1.1 (revised in Final EIR). Most of these impacts can be reduced to less than significant by implementing proposed mitigation measures identified in the Draft EIR (some of which are revised, clarified in Chapter 3 of the Final EIR). For example, Impact Discussion BIO-1A identified a significant impact on the existing Monarch Butterfly colony. Related Mitigation Measure BIO-1A requires controls on removal and pruning of trees in the southeastern portion of the Project site where the Monarch Butterfly overwintering colony is located. In another example, Impact HYDRO-1A states that project construction could adversely affect water quality. Therefore, Mitigation Measure HYDRO-1A requires construction and demolition controls that will reduce the potential for erosion and sedimentation to reach the water column.

An impact of keen interest to the City and the public is HYDRO-7, which identifies a significant impact because housing and other development could be placed within the 100-year floodplain, within a designated coastal high hazard area, and within areas subject to sea level rise. Mitigation Measure HYDRO-7 requires flood-proofing in accordance with the City’s floodplain management ordinance. It also requires a sea level rise assessment to be implemented through the detailed project-level plans

that will be reviewed by the City as part of the site plan review and tentative map process.

Any Project approval by the City Council will be required to adopt findings related to the impacts and mitigation measures and to adopt a Mitigation Monitoring and Reporting Program (MMRP), as described below.

Not all of the Project's significant impacts can be avoided or reduced to less than significant. As shown in Table 1-1 (revised in the Final EIR), some impacts will remain significant and unavoidable, even after feasible mitigation. Under these circumstances, any Project approval by the City Council will be required to adopt a Statement of Overriding Considerations in addition to the mitigation findings and MMRP. The significant unavoidable impacts relate to greenhouse gas emissions, noise and traffic/transportation, as summarized below.

- **GHG-1.** Implementation of the Project would directly or indirectly generate GHG emissions that may have a significant impact on the environment.
- **GHG-3.** Implementation of the Project would directly or indirectly generate GHG emissions that may have a cumulatively considerable and therefore significant impact on the environment.
- **NOISE-2.** Implementation of the Project could result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
- **NOISE-3.** Implementation of the Project would result in a substantial permanent increase in ambient noise levels in the vicinity of the project site above levels existing without the Project.
- **TRAF-2A.** The proposed Project would cause the I-880 northbound segment north of Davis Street to reduce from LOS E to LOS F in the PM peak hour under Year 2020 conditions.
- **TRAF-2B.** The proposed Project would cause the volume-to-capacity (v/c) ratio on the northbound segment of Doolittle Drive, which would operate at Level of Service (LOS) F, to increase by 0.06 under Year 2020 conditions and by 0.04 under Year 2035 conditions in the PM peak hour.
- **TRAF-7B.** The addition of traffic associated with implementation of the proposed Project would cause I-880 southbound ramps and Marina Boulevard (#14) to reduce to LOS E during both AM and Saturday peak hours, and would further reduce the service levels from LOS E to LOS F in the PM peak hour, under Near-Term Cumulative Conditions. .
- **TRAF-7C.** The proposed Project would cause operations at the intersection of San Leandro Boulevard and Marina Boulevard (#18) to reduce from LOS D to LOS E in the AM peak hour, adding to the existing substandard LOS F in the PM peak hour and cause the volume-to-capacity (v/c) ratio to increase by 0.07 under Near-Term Cumulative Conditions.
- **TRAF-7I.** The Project would cause the operations at the intersection of I 880 southbound ramps and Marina Boulevard (#14) to reduce from LOS D to LOS E in the AM peak hour; and would reduce the level of service from LOS E to LOS F in the weekday PM and Saturday peak hours and cause the V/C ratios to increase by 0.10 during both periods, which is higher than the 0.05 allowed by the City.
- **TRAF-7J.** The Project would add to the Long-Term Cumulative No Project substandard LOS F operations at the intersection of San Leandro Boulevard and Marina Boulevard (#18) and cause the v/c ration to increase by 0.07 in the AM peak hour and 0.10 in the PM peak hour.

## **Project Alternatives**

The Draft EIR analyzes alternatives to the Project that are designed to reduce the significant environmental impacts of the Project and feasibly attain most of the Project objectives. The project objectives were identified above and on pages 3-4 and 3-5 of the Draft EIR. CEQA requires that the Draft EIR analyze a No Project alternative. CEQA further requires that the other alternatives in the Draft EIR be “potentially feasible”. As noted in the Draft EIR, the City considered an offsite alternative and an alternative that removed the hotel but determined that these alternatives were not feasible and should not be addressed further. Based on the direction in CEQA Guidelines section 15126.6, the Draft EIR identified and analyzed the following alternatives to the Project in Chapter 6:

- No Project Alternative
- Relocated Hotel Alternative
- Reduced Density/Intensity Alternative

The Draft EIR analyzed the alternatives for each resource category (except the Relocated Hotel Alternative, which was analyzed as to Aesthetics only), comparing it to the identified Project impacts. The Draft EIR further identified whether the alternatives would avoid the Project’s significant unavoidable impacts related to GHG, noise and traffic. As noted above, the alternatives were chosen for discussion because they were potentially feasible. However, when the City Council considers whether to approve the Project, it will review the alternatives to determine if they are actually, not just potentially, feasible. The following summarizes the potential impacts of the alternatives and assesses the extent to which each meets the Project objectives.

The No Project Alternative assumes no further development or demolition on the Project site. As such, this alternative would avoid all potential impacts and would thus be the environmentally superior alternative. More specifically, this alternative would avoid all of the Project’s significant unavoidable impacts for GHG, noise and traffic because there would be no new development to create GHG emissions, or generate construction noise or new traffic. This alternative would have none of the Project impacts, but because no new development would occur, it would also not fulfill any of the Project objectives.

Where the environmentally superior alternative is a No Project Alternative, CEQA requires the identification of another environmentally superior alternative from among the other alternatives considered. The Reduced Density/Intensity Alternative which would reduce Project components, such as square footage, residential units, and hotel rooms by 25 percent would be the next environmentally superior alternative. As discussed in the Draft EIR, this alternative would reduce most of the Project’s potential impacts. The Draft EIR also notes that this alternative would reduce the Project’s significant unavoidable impacts for GHG, noise and traffic, but not with enough certainty or to a sufficient degree to avoid or reduce them to less than significant. This alternative would meet Project Objectives to redevelop the Marina Shoreline area with a mix of uses, and would provide public amenities, although to a lesser degree than the Project. However, based on the long history of trying to develop a successful project for the area, the City is concerned that the reduced density would not provide enough development to be economically viable, to maintain a high level of activity that would energize the area, or to create the interplay between uses that would mutually support the different components of the development. This alternative would also contribute substantially less

above-moderate income housing than the Project toward meeting the City's Regional Housing Needs Allocation (RHNA).

The Relocated Hotel Alternative would keep all the Project components at the same density and intensity, but would move the proposed hotel. Potential locations that could accommodate the hotel include the parking lot along Pescador Point Drive which is southeast of the current proposed location, the parking lot along Mulford Point Drive which is directly adjacent to the northeast of the proposed location, and on the corner of Monarch Point Drive and Monarch Bay Drive. Throughout the past planning efforts for the Marina Shoreline area, and given its sensitive shoreline and waterside location, views have been a particular issue for the City and the public. Therefore, the Draft EIR identified a view-based alternative for analysis and ultimately concluded that aesthetic and view impacts were less than significant. Overall, because of its similarities to the Project use, density, and conceptual site plan, this alternative would meet the Project objectives. As described in the Draft EIR, this alternative would also have generally the same impacts as the Project and would not reduce or avoid any of the Project's significant unavoidable environmental impacts related to GHG, noise or traffic.

### **Final EIR/Responses to Comments on the Draft EIR**

City staff received comments on the Draft EIR from numerous public agencies including the California Department of Transportation; East Bay Municipality Utility District (EBMUD); San Francisco Bay Regional Water Quality Control Board (SFRWQCB), California State Lands Commission, Alameda County Transportation Commission (ACTC), and the Port of Oakland. Additionally, a number of organizations and individuals provided comments on the Draft EIR including the Marina Action Committee; San Leandro Unified School District; Unite Here Local 2850; and the Mulford Gardens Improvement Association. Additional oral comments were provided at the San Leandro Planning Commission meeting held on January 15, 2015 and the City Council hearing on January 26, 2015.

Responses to all of the comments provided by these agencies and individuals are provided in the Final EIR document, dated June 2015. Chapter 2 of the Final EIR includes a revised Table 1.1 Summary of Impacts and Mitigation Measures that reflects revisions to the impacts and mitigation measures. These revisions are also shown in Chapter 3 of the Final EIR, including certain revisions and clarifications to the text in the Draft EIR resulting from public comments and/or preparation of written responses. Chapter 5 of the Final EIR includes every comment the City received and written responses to every comment. Given the high community interest in the Project, the comments addressed a wide range of potential resources. As such, this resulted in an unusually comprehensive Final EIR. The City carefully reviewed each comment, and provided discussion and additional analysis where appropriate. Some of the key issues identified in the comments include, but are not limited to, potential impacts to the Monarch butterfly winter roosting habitat, impacts associated with filling and modification of waters of the U.S. and/or State, construction and traffic noise impacts generated by the Project, traffic related impacts on several roadways in the vicinity of the Project, and impacts related to the quality of the Bay and Marina waters.

The City provided good faith, reasoned analysis, and additional research and consultation with subject matter experts in order to resolve, clarify, and address any of the environmentally related concerns raised in the comments. As a result, the comments and the responses provide a considerable amount of information. Therefore, the City carefully reviewed both the comments and



the responses against the recirculation standards in CEQA Guidelines Section 15088.5. Based on this review, the City determined that none of the comments, the responses or the changes to the Draft EIR involved a new significant environmental impact, a substantial increase in the severity of a significant environmental impact, or a feasible mitigation measure or alternative considerably different from that presented in the Draft EIR. Therefore, there is no significant new information under CEQA Guidelines Section 15088.5 that would trigger recirculation of the Draft EIR.

### **Planning Commission Review**

The Shoreline site and/or the proposed Project have been addressed in 65 public meetings, including recent workshops by the Planning Commission and City Council. State law requires the Planning Commission to conduct a noticed public hearing for the General Plan amendment and rezoning and make a recommendation to the City Council. Accordingly, the Planning Commission held a public hearing on June 18, 2015. Following the presentations given by City staff and PlaceWorks (the Project's EIR consultant) on the Project EIR, there were comments by the Commission and members of the public, as described below.

The only public comments were made by David Johnson (President/CEO of San Leandro Chamber of Commerce), and Terry Breese (San Leandro Marina Inn). Mr. Johnson's comments provided support for the Project and stated that the San Leandro Chamber of Commerce "strongly recommends" certification of the EIR, and that City staff and the consultant have adequately addressed the environmental issues in the EIR, including traffic and noise. Mr. Breese distributed a letter (**Exhibit B**) prepared by an attorney representing the Marina Inn. Mr. Breese stated that he has very "serious issues" with the EIR and asked that the Planning Commission consider the letter provided. In general, the letter expresses concerns related to potential aesthetic impacts from the proposed hotel, the urban decay analysis (Appendix B of the Draft EIR), phasing, air quality, noise, water quality, and alternatives. All of these issues have been addressed either in the Draft EIR or the Final EIR as part of the responses to comments; the EIR-related issues are summarized below, with staff comments in italics (the GPA/rezoning issues will be addressed in the staff report for those items).

- New hotel will affect views and compromises the existing hotel.

*Staff response: See Response B06-03 in the Final EIR regarding the Project effect on Marina Inn views.*

- Draft EIR view analysis is skewed.

*Staff response: The letter doesn't explain how the analysis is skewed and doesn't identify other vantage points that should have been considered. The view analysis for Impact AES-3 includes 16 pages of photos and photo simulations to support the analysis and conclusions. See Response B06-03 in the Final EIR regarding the Project effect on Marina Inn views.*

- Urban decay analysis is false and doesn't include the economic deal between the City and developer.

*Staff response: CEQA and the EIR are concerned with environmental impacts, not project economics, except if the project could cause urban decay through market oversaturation, etc. The urban decay analysis in Appendix B thoroughly reviews market demand, with particular attention to the Tourism and Hospitality sector. Its conclusions are straightforward and well-documented. They are also realistic - the analysis notes that it is reasonable for hotel owners to*

*be nervous about new competition (Appendix B, p. 8). The analysis also notes that the City as lessor to the Marina Inn is also concerned about localized impacts (Appendix B, p. 13). Based on this analysis, the Draft EIR reasonably concludes that the proposed new hotel would not overbuild the hotel market and the project would not result in urban decay (DEIR p. 4.1-34).*

- EIR does not analyze parking.

*Staff response: Parking is not a CEQA impact and need not be addressed in an EIR.*

- Inadequate information on phasing.

*Staff response: The Draft EIR project description clearly sets forth the uses for each phase (pp. 3-12 and -13). It is not clear what other information the letter thinks should be provided or how the existing information is inadequate.*

- Marina Inn is not considered a sensitive receptor in the air quality and noise analyses.

*Staff response: The Marina Inn is specifically identified as noise sensitive in both the air quality and noise analyses. For air quality, see Draft EIR p. 4.2-17 (“...guests of the ... (Marina Inn) may also be considered sensitive receptors. ...the short term exposures to TACs for hotel ... sensitive receptors would not result in significant health risks.”) For noise, see Draft EIR p. 4.10-28 (“Demolition and site preparation occurring in proximity of existing sensitive receptors such as residential and hotels would have the potential to cause high levels of noise at nearby uses.”)*

- Water quality analysis does not address removal of riprap or post-project water quality.

*Staff response: The Draft and Final EIRs describe the extensive network of federal, state and local regulations designed to protect water quality that would apply to the Project. Waterside demolition and construction impacts are addressed in the Draft EIR on p. 4.8-30 and in Impact HYDRO-1A. The discussion refers to removal of the existing marina, docks and piers, and would apply to removal of the rip-rap as well. Removal of the rip-rap would be encompassed within the demolition activities and does not raise any new or different impact issues than those described.*

- EIR should have identified alternative for continuing marina operations; the other two Draft EIR alternatives are better than the Project.

*Staff response: CEQA requires that the EIR analyze the “whole of the project”. The City Council has directed that boat harbor operations continue as long as financially possible; however, the project ultimately anticipates removal of the boat harbor so that is what the EIR analyzed. As to the Reduced Density/Intensity alternative, the history of approved but unbuilt past projects as well as the Shoreline Citizens Advisory Group’s consideration of alternative development scenarios over the years are evidence that a reduced density alternative is not feasible. The Relocated Hotel alternative is potentially feasible, but is not recommended for approval, as noted later in the staff report.*

No new concerns were raised in the letter, with the exception of analyzing parking impacts under CEQA, which is addressed below.

Following public comment, the Planning Commission sought clarification on the following issues, primarily related to traffic, utilities, school, and aesthetics. The comments and concerns are summarized and addressed below.

- Will the development agreement provide the rest of the project implementation details?

*Staff response: The project details will be presented during the Site Plan Review and Tentative Map application process. Details on implementation of necessary mitigation measures will be part of the site plan approval package.*

- Clarification of phasing of the Project?

*Staff response: The necessary infrastructure and public amenities will be constructed during Phase 1.*

- Why parking on Neptune is not considered an environmental effect?

*Staff response: Parking is not considered under the purview of CEQA and therefore not required to be analyzed as an environmental impact; however, parking will be reviewed at the time of Site Plan Review to ensure the project complies with adopted City standards for parking.*

- In addition to comments by EBMUD, how are other utilities analyses addressed to come to the conclusion of less than significant?

*Staff response: During preparation of the EIR and during public review, utility providers are contacted for information regarding ability to be able to provide sufficient services to the project at buildout. EBMUD was the only provider to submit comments. EBMUD and other utilities are addressed in the Draft EIR.*

- Traffic concern at the intersection of Aurora/Marina and the need for a signal rather than a roundabout.

*Staff response: Either a roundabout or traffic signal was identified as possible mitigation to reduce traffic impacts to less than significant at this intersection. At the time of Site Plan Review and/or when project-level plans are reviewed, the City will select which option will be best suited for this intersection.*

- Concern related to the school district and number of students generated by the Project.

*Staff response: The project is required to pay statutory school fees as CEQA mitigation; however, the school district can impose additional fees subject to a nexus study. The School Districts set the fees and the City collects the fees on their behalf.*

- Concern with location of the proposed hotel in front of the Marina Inn.

*Staff response: The proposed hotel is across the Marina basin from the existing Marina Inn. The proposed location of the hotel includes a comprehensive view analysis included in Impact AES-3 of the Draft EIR, which also includes 16 pages of photos and photo simulations to support the analysis and conclusions. See Response B06-03 in the Final EIR regarding the Project's effect on Marina Inn views, based on the proposed location of the hotel. The Draft EIR also included a Relocated Hotel Alternative for consideration by the City, which analyzed three other locations for the hotel and concluded that relocating the hotel to any of the other locations would reduce potential view impacts looking west; however, constructing a hotel at the other locations would also result in similar view impacts, albeit from different vantage points. Overall, because the Draft EIR concluded there is a less-than-significant impact to views supported by photo simulations and reasoned analysis, and because relocating the hotel to another location would not necessarily reduce the potential for view impacts, but rather shift where view impacts would occur, the proposed location of the hotel is appropriate in order to best meet project objectives.*

- Peak hours of traffic may not coincide with peak hours for school traffic.

*Staff response: Normally, one particular hour between 7:00 a.m. to 9:00 a.m., and one particular hour between 4:00 p.m. and 6:00 p.m. on weekdays are used for most of the traffic impact analyses for typical land uses such as residential, office and commercial uses. School traffic peaks typically occur during the AM peak period (from 7:00 a.m. to 9:00 a.m.) and during the mid-afternoon period (from 12:00 p.m. to 3:00 p.m.). While the Shoreline traffic analysis did not capture the mid-afternoon school peak, it did capture the more concentrated morning school drop-off traffic peak, which tends to be far heavier than the afternoon pickup traffic.*

*Further, City guidelines requires analysis of typical land uses to coincide with weekday heavy commute peak hours (between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. and 6:00 p.m.) as these typically represent the highest traffic conditions, both on the freeway (per Caltrans PeMS counts) and on surface streets (per City counts).*

*In addition, most of the impacts on City streets occur at intersections and these impacts usually occur during the traditional commute periods.*

*Based on this, staff concludes that the Shoreline traffic analysis is adequate for capturing the highest traffic levels for background traffic and for Shoreline project traffic.*

- Use of non-vehicular modes to lessen impact of cars/vehicles.

*Staff response: The Mitigation Measures include requiring bicycle end-trip facilities, including bike parking, showers and locker as part of the GHG reduction measures. These items along with the requirement of improving the bicycle network to the site with the addition of bicycle lanes on Doolittle Drive and additional signage for Class III routes will work towards lessening the impact of cars/vehicles into the area.*

- Zoning regulations in the Project area allow for building heights up to 50 feet; would CEQA allow this?

*Staff response: The EIR assumed a maximum building/structure height of up to 35 feet. A substantial increase beyond 35 feet in height could be subject to additional CEQA review. Building heights and other design details will be reviewed at the time of Site Plan Review.*

Following Planning Commission comments and deliberation, the Planning Commission recommended certification of the EIR as is on a 5-1 vote.

### **CEQA Impact and Mitigation Findings**

As mentioned above, any Project approval by the City Council will be required to adopt findings related to the impacts and mitigation measures (CEQA Guidelines Section 15091). These findings are found in Attachment C in the associated resolution. The findings provide a summary description of each impact, describe the applicable mitigation measures identified in the EIR, explain how the mitigation will reduce or avoid the related impact, and state the significance of each impact after imposition of the mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Draft and Final EIRs. The facts supporting these findings are found in the record as a whole for the Project.

As reflected in the Draft and Final EIRs, most of the Project's significant impacts can be avoided or reduced to less than significant through the identified mitigation measures. For impacts that cannot

be avoided or substantially lessened, the City is required to adopt a statement of overriding considerations (CEQA Guidelines Section 15093) stating why these impacts outweigh the unavoidable adverse environmental effects, as further described below.

### **Alternatives Findings**

CEQA provides that decision-makers should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures that would substantially lessen the significant impacts of the project (CEQA Section 21002). The EIR identified feasible mitigation measures that would reduce most of the potentially significant impacts to less than significant, as further set forth in the impact and mitigation findings (Attachment C in the associated Resolution). However, there are impacts in the EIR that would remain significant after mitigation (i.e., significant and unavoidable) and no feasible mitigation or project alternative is identified to reduce impacts to less than significant. These impacts are described above and relate to greenhouse gas emissions, noise and traffic/transportation.

If the Project's significant impacts cannot be mitigated to less than significant, CEQA requires the City as lead agency to assess whether feasible project alternatives would avoid or reduce the otherwise significant and unavoidable impact. Whereas the Draft EIR identified alternatives that were potentially feasible, the City must now consider whether the alternatives avoid the Project's unavoidable impacts and are actually feasible.

1. No Project alternative. As explained earlier, the No Project alternative would avoid the Project's unavoidable impacts but would not meet any of the Project objectives. For this reason, the No Project alternative is infeasible and staff recommends that it be rejected.
2. Reduced Density/Intensity alternative. As discussed in the Draft EIR, the Reduced Density/Intensity alternative is compatible with the Project objectives to provide for a mix of uses. The mix of uses would allow the residential, non-residential and recreational uses to interact and support one another. The reduced density/intensity, however, is not likely to support the development economically. The Shoreline area has long been the subject of City and public planning. Smaller and limited use projects were approved in the past, but were never built because they could not obtain financing. One of the major concerns for the public Shoreline planning advisory groups over the last decade has been evaluating what mix, proportion and level of uses and intensity would be successful. Ultimately, the advisory groups recommended the mix and intensity of the proposed Project as the most likely level of development to generate enough economic activity to be viable. The City's past history with approved but unbuilt projects and the advisory group consideration of various levels and mixes of intensity suggests that the reduced density/intensity alternative would not be economically viable and thus, would not achieve one of the Project's primary objectives. As such, this alternative would not be feasible. In any case, this alternative reduces but does not avoid any of the Project's unavoidable impacts. For these reasons, staff recommends that this alternative be rejected.
3. Relocated Hotel alternative. As noted earlier, the Relocated Hotel Alternative would keep all the Project components at the same density and intensity, but would move the hotel to another location on the marina. Because of its similarities to the Project use, density, and conceptual site plan, this alternative would meet the Project objectives. However, as described in the Draft EIR, this alternative would also have generally the same impacts as the Project and would not reduce or

avoid any of the Project's significant unavoidable environmental impacts related to GHG, noise or traffic. Because all of the Project's unavoidable impacts would remain unavoidable under this alternative, staff recommends that it be rejected.

In addition to the above alternatives identified in the Draft EIR, the City received public comments suggesting consideration of a single use alternative, and a 50/75% reduced density/intensity alternative. The Final EIR addresses both of these suggestions in the responses to comments. Based on those discussions, neither of these alternatives would be feasible and were not further considered. In compliance with CEQA, any consideration of Project approval must include findings to address whether there are any feasible alternatives that would reduce the significant and unavoidable impacts identified in the EIR for the Project to less than significant. Based on the Draft EIR, the Final EIR and other information in the record, staff cannot conclude that any feasible alternatives have been identified that would avoid the Project's unavoidable impacts. Staff therefore recommends that each of the alternatives be rejected, as set forth in Attachment D in the associated resolution. A brief description of each alternative can be found above under "Project Alternatives."

### **Statement of Overriding Considerations**

Pursuant to CEQA Guidelines section 15093, the City Council of the City of San Leandro must adopt a Statement of Overriding Considerations (SOC) for the significant and unavoidable impacts of proposed development of the Project site. Through the SOC, the Council balances the benefits of the Project against its unavoidable impacts and concludes that the benefits outweigh the unavoidable impacts (Attachment E in the associated resolution). The attached Statement of Overriding Considerations states that many of the unavoidable environmental effects identified in the EIR will be substantially lessened by mitigation measures adopted with the EIR and other environmental protection measures adopted through the Project approvals, to be implemented with the development of the Project. Even with mitigation, implementation of the Project carries with it significant and unavoidable adverse environmental effects, as identified in the EIR. To the extent that the identified adverse or potentially adverse impacts for the Project have not been mitigated to acceptable levels, there are specific economic, social, environmental, land use, and other considerations that support approval of the project. For example, the Project will facilitate development of an underutilized site, fully served by public utilities, services, and public transit and in an area of urban development. The Project improves an underdeveloped site with convenient freeway, street, bicycle, and pedestrian access and would allow the City to implement its recently adopted Complete Streets program. The Project would provide a daytime employment center with access to public transit and new and existing residential uses. This mix of uses facilitates future employees and residents alike being able to use non-auto transportation options for work and recreation. The residential development provides a diversity of types of units to meet different types of housing needs and will contribute towards meeting the City's RHNA need for above moderate housing. The Project will provide commercial and recreational uses to accommodate the demands of the community. The conference center, in particular, provides a convenient venue for City residents to celebrate weddings, family gatherings, etc. The Project overall promotes economic growth, creates diverse new employment opportunities, expands the City's tax base and will stabilize the Shoreline Enterprise Fund, which is currently burdened with significant debt due to the costs of past dredging operations. Development of the Project site will also provide construction employment opportunities. For all of the above reasons, the benefits of the Project outweigh its significant and unavoidable environmental impacts as to greenhouse gas emissions, noise and traffic/transportation.

### **Mitigation Monitoring and Reporting Program**

In order to ensure that mitigation measures identified in an EIR are implemented, the City is required to adopt a program for monitoring or reporting of such mitigation measures pursuant to the provisions of CEQA Guidelines Section 15097. The Mitigation Monitoring and Reporting Program (MMRP) for the Project includes the following information and is included as Attachment F in the associated resolution:

- A list of mitigation measures to be implemented
- The timing for implementation of each mitigation measure
- The agency responsible for monitoring implementation
- The monitoring action and frequency

### **Conclusion**

The Draft EIR discussions and the nature and extent of public comments disclose the many sensitivities of the Project site. Its shoreline location ensures a high level of public visibility and interest. In fact, the Shoreline area has been a regular subject of local planning efforts and committees since about 2005, is the subject of existing General Plan policies and is one of ten identified focus areas in the pending General Plan update. The City and public have long sought to preserve the boat harbor but the economic and physical challenges of dredging two miles of channel have forced the City to examine alternate uses for the harbor basin. Similarly, the City approved development projects in the mid- to late 1990s, but none obtained financing.

As required by CEQA, the Draft EIR and public review focus on the physical environmental resources of the Project site, from aesthetics to providing utility infrastructure. As further required by CEQA, the Draft EIR and Final EIR take a hard look at the Project, identifying a wide range of potential impacts. Mitigation measures are identified where feasible; unavoidable impacts are identified where mitigation is uncertain or not feasible. The CEQA review process for the Project has resulted in an extensive and comprehensive informational base for the City and the public to consider when the Project is reviewed on its merits. Through the active CEQA review process, which engaged the public, City staff, City decision makers and other public agencies, the Project EIR adequately complies with CEQA requirements and provides a factual and accurate assessment of the potential environmental effects of the Shoreline Development Project.

### **RECOMMENDATION**

As more fully described and explained above, Staff recommends that the City Council consider the recommendation of the Planning Commission and adopt the attached resolution for certification of the San Leandro Shoreline Development Project EIR.

### **Legal Analysis**

This report has been reviewed and approved by the City Attorney.

### **ATTACHMENTS**

#### **Attachment to Staff Report**

- Exhibit A: Palmieri, Tyler, Wiener, Wilhelm & Waldron Letter on behalf of Marina Inn, dated June 18, 2015

#### **Attachments to Resolution**

- Attachment A: Draft EIR
- Attachment B: Final EIR
- Attachment C: CEQA Impact and Mitigation Findings
- Attachment D: Alternatives Findings
- Attachment E: Statement of Overriding Considerations
- Attachment F: Mitigation Monitoring and Reporting Program

**PREPARED BY:** Cynthia Battenberg, Community Development Director