

Jasch Janowicz

From: healpatt@aol.com
Sent: Monday, March 23, 2015 3:29 PM
To: Jasch Janowicz
Subject: EIR special status animals
Attachments: eirwholefoods.doc

RECEIVED
MAR 23 2015
 PLANNING DEPT.

Here is one of the Malibu Coalition for Slow Growths Comments on the Whole Foods DEIR.

The EIR is deficient in so many other areas that it is required to be revised and recirculated to the public for comment. Biological resouces 3.3-1

The EIR states: "Wildlife habitat is of marginal quality due to the disturbed conditions, presence of litter, and the lack of native plants or plant communities. Wildlife encountered include California [Beechey] ground squirrel (*Otospermophilus beecheyi*), with many burrows over the entire area, and bird species typical of urban areas, such as American crow (*Corvus brachyrhynchos*), rock pigeon (*Columba livia*), northern mockingbird (*Mimus polyglottos*) and western scrub jay (*Aphelocoma californica*). One western fence lizard (*Sceloporus occidentalis*) was seen during the June 2014 survey."

1

The EIR includes a list of potential special concern species that includes the Coast horned lizard, *Phrynosoma blainvillii*. This species can currently be found less than 100 yards from the site and has reportedly been observed on the site in the past. The EIR even states that the native ants that are the species' food source were found on the site. Why does the EIR conclude there are no coast horned lizards at the site?

2

Two other California Species of Special concern have been observed in the vicinity of the site but are not listed in the report: the yellow-breasted chat, *Icteria virens*; and the yellow warbler, *Dendroica petechia*. Why were these species not included?

3

The EIR states that at least three species of bat could potentially occur on the site: the hoary bat, *Lasiurus cinereus*; the Western red bat, *Lasiurus blossevillei*; and the pallid bat, *Antrozous pallidus*. The report states that, in the case of the hoary bat, "Marginal roosting habitat is present on and adjacent to the project site." It also concludes that the Western red bat "may be present in Malibu Creek nearby," and that the hoary bat "could forage on site."

4

The report fails to mention the Mexican free-tailed bat, *Tadarida brasiliensis*, another species of special concern that is routinely observed foraging on and around the site. This bat, one of the only local species that makes a noise audible to humans, is probably the most frequently observed bat in the vicinity of the site, but it was not included in the report. Why? The potential presence of one or more protected bat species on the site has not been adequately addressed in the EIR.

For several years, the sycamores on the property have been a preferred roosting site for the white-tailed kite, another species with special status that was not mentioned in the report. After conceding that three bat species could be present at the site, neglecting to mention a fourth regularly observed bat species, and failing to mention the yellow-breasted chat, the yellow warbler, or the white-tailed kite, the EIR states: "Table 3.3-1, special-status wildlife species reported for the vicinity are not expected to occur on-site due to the absence of suitable habitat and therefore will not be discussed further in this document."

5

The EIR fails to include the Mexican free-tailed bat and the three special concern bird species known to frequent the area. Are there other special status wildlife species that the report failed to identify?

6

It also states that species of special concern are "not expected to occur," and then concludes: "No special status wildlife was identified as occurring or potentially occurring on the project site."

There's a big difference between "not expected to occur" and "not occurring or potentially occurring." This is circular logic and makes absolutely no sense. The final conclusion also contradicts the EIR's early assessment that the coast horned lizard, the hoary bat, pallid bat, and western red bat could potentially occur on the site.

7

This site, which is located in environmentally sensitive area, despite portions that have been disturbed, requires a full biological inventory.

3.3-1

The EIR states: "Wildlife habitat is of marginal quality due to the disturbed conditions, presence of litter, and the lack of native plants or plant communities. Wildlife encountered include California [Beechey] ground squirrel (*Otospermophilus beecheyi*), with many burrows over the entire area, and bird species typical of urban areas, such as American crow (*Corvus brachyrhynchos*), rock pigeon (*Columba livia*), northern mockingbird (*Mimus polyglottos*) and western scrub jay (*Aphelocoma californica*). One western fence lizard (*Sceloporus occidentalis*) was seen during the June 2014 survey."

8

The EIR includes a list of potential special concern species that includes the Coast horned lizard, *Phrynosoma blainvillii*. This species can currently be found less than 100 yards from the site and has reportedly been observed on the site in the past. The EIR even states that the native ants that are the species' food source were found on the site. Why does the EIR conclude there are no coast horned lizards at the site?

Two other California Species of Special concern have been observed in the vicinity of the site but are not listed in the report: the yellow-breasted chat, *Icteria virens*; and the yellow warbler, *Dendroica petechia*. Why were these species not included?

9

The EIR states that at least three species of bat could potentially occur on the site: the hoary bat, *Lasiurus cinereus*; the Western red bat, *Lasiurus blossevillii*; and the pallid bat, *Antrozous pallidus*. The report states that, in the case of the hoary bat, "Marginal roosting habitat is present on and adjacent to the project site." It also concludes that the Western red bat "may be present in Malibu Creek nearby," and that the hoary bat "could forage on site."

10

The report fails to mention the Mexican free-tailed bat, *Tadarida brasiliensis*, another species of special concern that is routinely observed foraging on and around the site. This bat, one of the only local species that makes a noise audible to humans, is probably the most frequently observed bat in the vicinity of the site, but it was not included in the report. Why? The potential presence of one or more protected bat species on the site has not been adequately addressed in the EIR.

For several years, the sycamores on the property have been a preferred roosting site for the white-tailed kite, another species with special status that was not mentioned in the report. After conceding that three bat species could be present at the site, neglecting to mention a fourth regularly observed bat species, and failing to mention the yellow-breasted chat, the yellow warbler, or the white-tailed kite, the EIR states: "Table 3.3-1, special-status wildlife species reported for the vicinity are not expected to occur on-site due to the absence of suitable habitat and therefore will not be discussed further in this document."

11

The EIR fails to include the Mexican free-tailed bat and the three special concern bird species known to frequent the area. Are there other special status wildlife species that the report failed to identify?

12

It also states that species of special concern are "not expected to occur," and then concludes: "No special status wildlife was identified as occurring or potentially occurring on the project site."

13

There's a big difference between "not expected to occur" and "not occurring or potentially occurring." This is circular logic and makes absolutely no sense. The final conclusion also contradicts the EIR's early assessment that the coast horned lizard, the hoary bat, pallid bat, and western red bat could potentially occur on the site.

This site, which is located in environmentally sensitive area, despite portions that have been disturbed, requires a full biological inventory.

Letter No. B-1a: Malibu Coalition for Slow Growth

Response B-1a-1

This comment is a set of general remarks and opinions, as well as a statement in support of the project. It presents no specific environmental issues within the meaning of CEQA and no specific response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Response B-1a-2

The commenter states that coast horned lizards can be found less than 100 yards from the site and have been reported on-site in the past, but provides no specific evidence or reference to support the statement.

The substrate on the project site is highly compacted and not typical of the loose sandy soils preferred by coast horned lizard (refer to Table 3.3-1, Summary of Special Status Wildlife Species Reported as Occurring in the Vicinity of the Whole Foods and the Park Site), and this species was not observed on the project site during site visits performed by qualified biologists in January 2010 and June 2014.

Response B-1a-3

The commenter states that yellow-breasted chat and the yellow warbler been observed in the project vicinity, but provides no specific evidence or reference to support the statement.

These species are dependent on dense riparian habitats which do not occur on-site. Neither of these species has been reported on the California Natural Diversity Database (CNDDB) as occurring in the vicinity.⁸

Response B-1a-4

The commenter states that Mexican (Brazilian) free-tailed bats have been observed foraging on and in the project vicinity, but provides no specific evidence or reference to support the statement.

Mexican (Brazilian) free-tailed bats are not on the CDFW's March 2015 Special Animal list and are afforded no level of protection. This common wide-ranging species may travel over 30 miles from its

⁸ California Natural Diversity Database Query for 7.5 minute USGS quadrangle maps including in the project vicinity: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume. June 2014. Commercial edition updated June 2014.

roost, and thus may forage over the site. No impact to the bat's ability to forage in the vicinity would occur as a result of project development and no further analysis is provided.

Response B-1a-5

The commenter states that the sycamores on the property have been a preferred roosting site for the white-tailed kite, but provides no specific evidence or reference to support the statement.

The occurrence of white-tailed kites on-site has not been reported in the literature or to CNDDDB. There was no evidence found of kites roosting during site visits performed by qualified biologists in January 2010 and June 2014. In addition to direct sighting, such evidence would include an accumulation of prey remains and/or droppings under the trees.

Response B-1a-6

The Draft EIR properly reports findings related to special status wildlife species in the literature, including the CNDDDB, refer to Table 3.3-1, Summary of Special Status Wildlife Species Reported as Occurring in the Vicinity of the Whole Foods and the Park Site.

Response B-1a-7

The EIR does not state that the species noted could potentially occur on the site; please refer to Table 3.3-1, Summary of Special Status Wildlife Species Reported as Occurring in the Vicinity of the Whole Foods and the Park Site.

The site is not located within a designated Environmentally Sensitive Habitat Area (ESHA) mapped by the Malibu Local Coastal Plan (LCP). A biological inventory was prepared for the project site in January 2010 by Rachel Tierney; refer to Appendix 3.3, Biological Resources Documentation, of the Draft EIR. No rare or sensitive plants or animals were found onsite during site visits performed by qualified biologists in January 2010 and June 2014.

Response B-1a-8

Refer to **Response to Comment B-1a-2**

Response B-1a-9

Refer to **Response to Comment B-1a-3**

Response B-1a-10

Refer to **Response to Comment B-1a-4**

Response B-1a-11

Refer to **Response to Comment B-1a-5**

Response B-1a-12

Refer to **Response to Comment B-1a-6**

Response B-1a-13

Refer to **Response to Comment B-1a-7**

Jasch Janowicz

From: healpatt@aol.com
Sent: Monday, March 23, 2015 5:21 PM
To: Jasch Janowicz
Subject: whole foods DEIR

RECEIVED
MAR 23 2015
PLANNING DEPT.

Comments of Malibu Coalition for Slow Growth

Emergency evacuation. Describe the evacuation plan for the center in case of fire or major earthquake. Please analyze and tell us how the project could impact the safe evacuation of Serra residents and how it might impair first responders from entering Serra.
What realistic mitigation measures can be put in place to prevent harm to Serra residents?
Is there enough water to fight a wildfire? Analyze how the continuing drought effect could wildfire protection?

	1
	2

Letter No. B-1b: Malibu Coalition for Slow Growth

Response B-1b-1

Please refer to **Topical Response 2**.

Response B-1b-2

Please refer to **Topical Response 2**.

Jasch Janowicz

From: healypatt@aol.com
Sent: Monday, March 23, 2015 4:25 PM
To: Jasch Janowicz
Subject: Whole Foods Draft EIR

RECEIVED
MAR 23 2015
PLANNING DEPT.

Landscaping and Project Alternatives
Comments from Malibu Coalition for Slow Growth

Both the MMC and the LCP require 40% of the gross lot area to consist of landscaping. This provision was put in the MMC and LCP for a specific reason. Open space whether it be landscaped or natural open space defines the character of Malibu. Landscaped gross lot area was required in commercial projects to keep the rural atmosphere of Malibu intact.

1

This is an important part of the city's regulations for open space and meets the threshold of significance mentioned in 3.9.2 since the lack of landscaping conflicts with any applicable land use policy or regulation for the purpose of avoiding or mitigating an environmental effect. Therefore, a finding of overriding consideration would be required.

2

A variance is not appropriate since granting a variance for this project will open the door to allow landscaping variances for all the other future commercial development in the civic center turning the gross lot area open space requirement upside down and thereby eventually losing the intended rural feeling of the Civic Center area.

Lot area is a defined term which means 'land area used for a particular purpose'. In this instance the required purpose/ use is landscaping. To allow the applicant's definition is not permissible since it is different from the clear meaning of gross lot area.

3

To say that landscaping is not a defined term and therefore a possible definition of landscaping for the purpose of the 40% is that used in the water conservation ordinance is not valid.

4

It is possible for the developer to adhere to this 40% requirement as indicated by the preparer in alternative 2. and he should be required to do so.

5

The description of alternatives 2 and 3 in the draft EIR are clearly not the best designs possible and indicate bias in favor of the proposed project. We ask that they following be substituted their 1. A market the same size and design as Whole Foods with the remaining 4000+ square feet of developable area either consisting of either 2 or 4 smaller structures. 2. Four one story structures without the market that meet code requirements.

6

Letter No. B-1c: Malibu Coalition for Slow Growth

Response B-1c-1

This comment is a set of general remarks summarizing the City's landscaping requirements and opinions regarding the purpose of these landscaping requirements. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Response B-1c-2

The term Landscaped Area is not defined in the LCP. The definition of Landscaped Area in the City's Landscape Water Conservation Ordinance (9.22.020 Definitions) however does include walls and fences which are part of the landscape design features of the project per (Section 9.22.090 (A)(12.) The Specific Plan prepared for the proposed project establishes the on-site landscaping requirements and identifies the permitted functional landscape elements that can be used to comply with the requirements. The functional landscaping elements which could be included in the landscaped area calculations include ground cover, tree canopies, and green walls. Under these proposed landscaped standards, the project would provide greater Landscaped Area than required.

Response B-1c-3

Please refer to **Response to Comment B-1c-2**.

Response B-1c-4

Please refer to **Response to Comment B-1c-2**.

Response B-1c-5

This comment is a set of general remarks and opinions. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Please refer to **Response to Comment B-1c-2**.

Response B-1c-6

According to the *State CEQA Guidelines*, Section 15126.6(a), an EIR must describe a reasonable range of alternatives to the proposed project, or to the location of a proposed project that attain most of the basic objectives of the project in a feasible manner, but avoid or substantially lessen any of the significant effects of the project.

The legal standard for the discussion of alternatives states that:

The discussion of alternatives need not be exhaustive, and the requirement as to the discussion of alternatives is subject to a construction of reasonableness. The statute does not demand what is not realistically possible given the limitation of time, energy, and funds. [P] Absolute perfection is not required; what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned. It is only required that the officials and agencies make an objective, good-faith effort to comply.

The Draft EIR complies with the requirements of the *State CEQA Guidelines* as it provided full analysis of three alternatives (Alternative 1: No Project/No Development Alternative, Alternative 2: Code Complying Alternative and Alternative 3: Two-story Building Alternative,) in addition to providing brief narratives for four other alternatives (Alternative Site, Reduced Supermarket Square Footage, Subterranean Parking Lot and Alternative Uses) that were considered but not evaluated in detail as they were all deemed to be infeasible.

Jasch Janowicz

From: healypatt@aol.com
Sent: Monday, March 23, 2015 5:26 PM
To: Jasch Janowicz
Subject: Fwd: whole foods written scoping comments

RECORDED
MAR 23 2015
PLANNING DEPT

Please include in the DEIR the following comments

1

From: Healypatt@aol.com [mailto:Healypatt@aol.com]
Sent: Tuesday, May 29, 2012 4:25 PM
To: Bonnie Blue
Cc: Joyce Parker-Bozylinski
Subject: Fwd: whole foods written scoping comments

Hi Bonnie, this bounced back so I am resending.

From: Healypatt@aol.com
To: bblue@ci.malibu.ca.us
CC: jparker-bozylinski@malibucity.org
Sent: 5/29/2012 4:21:32 P.M. Pacific Daylight Time
Subj: whole foods written scoping comments

To: Bonnie Blue
Cc: Joyce Parker-Bozylinski
From: Patt Healy for Malibu Coalition for Slow Growth
Date: May 29, 2012
Re: Whole Foods EIR scoping comments

Agriculture.

Please add for study an agricultural component to this EIR. To say that Agricultural resources are not pertinent and have no impact to this site is inaccurate. This site and other parcels in the Civic Center are in the ancient flood plain of Malibu Creek. For centuries this creek was depositing agriculturally rich soil onto this property and elsewhere in the Civic Center. The effect of the loss of some or all of this soil due to excavation, grading, driveways, parking lots and structures has to be analyzed. The use of this property for agricultural should be looked at.

Health and Safety

The city has the right and duty under the Constitution to exercise its police powers to protect the health and safety of its citizens. The city has many natural non governmental constraints to development and this project has to be looked at in light of its constraints.

Now is the time for the city to consider its ability to protect the health and safety of its residents rather than protecting the desires of Developers, therefore, the EIR needs to analyze the ability of residents and visitors in the Civic Center Area to safely evacuate in the event of an emergency.

The immediate neighborhoods of concern in the vicinity of this project are Serra, Sweetwater Mesa Knolls, Malibu Road, the Colony, the 2 elementary schools, Winter Canyon condos, Pepperdine University, Santa Monica College. Also, need to include in the analysis the evacuation ability of proposed hotel guests and staff, visitors to bluffs Park and the beaches, shoppers in the Civic Center area and possibly the residents outside of the city limits in the vicinity of Malibu Canyon Road this side of Mulholland who would be coming down Malibu Canyon to Malibu in an attempt to outrun and escape a wildfire.

2

3

The very real hazard of wildfires for safety reasons should limit development throughout the city . Because of the city's substandard and narrow road system in its residential areas, residential evacuation in a wildfire is at best a harrowing experience and could very well be an impossible situation. In addition, PCH , a state highway , serves residents, coastal travelers, and non local commuters and visitors alike. On summer weekends residents can't leave their homes because of gridlock the entire length of the city. What happens to the ability to evacuate in an emergency on a summer weekend or a fall late afternoon/early evening during rush hour ?

3

Note the fire department has always said they had the ability to defend a particular project. However, it is important to note they are talking about in the event of a structure fire not a wildfire. They have never said they could defend in a wildfire situation. This health and safety constraints and other health and safety constraints need to be taken into consideration in your analysis. Therefore, traffic impacts in light of the ability to evacuate must be looked at .

To add to the severity of the situation Malibu's water supply in many areas is substandard . It is our understanding that Malibu's water supply is delivered from an antiquated water main that runs along PCH and the water is diverted to water storage tanks located at higher elevations , the water feeds through gravity from the tanks delivering water to residences. We understand that all new projects in the Civic Center area are required to contribute to the cost of a water tank in the Serra neighborhood.

4

Is there enough water to protect existing development in a wildfire ? It must be analyzed as to whether or not this diversion of water to a new water tank will diminish the supply that would go to existing residents especially west of the project in an wildfire situation.

Also the cumulative impact of all the currently proposed development on the potable water supply has to be studied. The Metropolitan Water District in the early days of cityhood wrote a letter saying that the recommended emergency water supply is seven days. At the very minimum Malibu should have a three day emergency supply .

5

In many areas of the city the emergency water supply on properties is less than one day and the tanks drain quickly in a wildfire situation and other emergency situation . Also there are water main breaks , due to earth movement , cutting off water supply. The cumulative impact on existing water supply (residential, institutional and commercial) in a wildfire needs to be analyzed. It should be determined whether the existing water supply should be upgraded to adequately protect existing residents and property prior to allowing new development needs to be looked at. The effect of diverting water to this project and other pipeline projects needs to be analyzed .

6

In addition, there are other non governmental constraints such as substandard road systems but in both residential areas and along PCH and the narrow and curvey canyon roads that impact the ability to safely develop. The potentially active Malibu fault runs through the CivicCenter area . Where is this fault and splays of the fault in relation to this property.

7

How will creek flooding effect this property ? If building structures are elevated above the flood plain how will runoff at the lower on site elevation be handled and its negative effects if any be handled ?.

8

Cumulative Impacts

With so many projects going thru the pipeline in the Civic Center area it is clear that this project and the others at the maximum allowable FAR of .15 are far too many because of the existing non governmental constraints. This project 's cumulative impacts needs to be studied in relation to existing development , and the following currently proposed development. Pepperdine expansion, Bluff Park residences ,La Paz, IOKI, Santa Monica College, Rancho Malibu hotel and Affordable Housing .

9

All of these projects are going forward with individual EIR's that will be looking for individual approval at by the Planning Commission and/or City Council. Is there a way to have these projects go to the decision makers when all the EIR's are complete so the Planning Commission and Council consider these projects as a whole and if needed reduce the density of each as they see fit?

Landscaping

In order to maintain the rural qualities of the area and development in a park like setting he city requires 40% landscaping and 25% open space on each project. The required landscaping component of the project is enormously deficient. Please look at the ways that the project can meet the needed criteria, such as potential roof top parking on top of the Supermarket structure. Since the project should be conditioned so all deliveries take place at night after the center is closed ,converting the Cross Creek entrance and drive way to landscaping or Converting the western service road to

10

landscaping needs to be examined. Since the structures are 24- 28 feet tall consider 2 story or partially 2 story structures as a way of meeting landscaping requirements..

10

Analyze Additional items

-- The Lighting plan: a low key lighting plan should be required as a mitigation factor. All off site light intrusion needs to be mitigated and on sight lighting should be the minimum to insure on site safety. After hours the lighting should be reduced even further. The cumulative impact of this lighting plan in relation to the proposed new projects needs to be looked at.

11

-- The Landscape plan needs to be looked at to insure a majority of drought tolerant fire resistant natives plants are being used.

12

--Visual Impacts as seen from Legacy park, PCH and Malibu Canyon Rd both scenic roads as well as from residential area in the city such as the Knolls Winter Canyon condos and Serra .

13

--Assess the fire departments and an ambulances ability to reach the project in the event of an emergency.

14

--A through and accurate traffic study of traffic conditions resulting from this project and the cumulative impact of this project and other pipeline projects on traffic from McClure tunnel to county line.

15

--Also study traffic backup on streets entering and exiting PCH and all streets in the vicinity of the Civic Center(both commercial and residential roads) . Study should be done at peak hours (at rush hour and summer weekends and traffic situation in relation to the ability to evacuate in an emergency).

16

--Need and location and size of an onsite emergency water storage needs to be looked at.

17

--Need and location of an effective emergency evacuation easement needs to be analyzed

18

--Amount of needed potable water usage for this project must be looked at.

19

--What effect does this project have on the size of the proposed centralized treatment plant ? Would the plant be smaller without this project's hookup? How much water will this project add to the proposed deep well injection disposal and is it safe? Should the project have an onsite treatment system?

20

-- Do any geological hazards,including fault(s) and splays , run through this property ? If there are any how will they effect the ability of this project to safely dispose of its wastewater and what is the potential to damage to sewer lines water lines, electric lines and other infrastructure as well as potential damage due to constructing this project buildings on the fill needed to elevate it above the flood plain?

21

-- The EIR needs to look at this projects impact on existing local business and on other landlords. How will Whole Foods impact the business of PC Greens, Ralphs and The Vitamin Barn. Will this project be luring tenants from existing Civic Center stores and from stores in other parts of the city such as along PCH east of the Civic Center resulting in empty retail spaces , harming existing landlords and resulting in potentially blighted area. If these potentials exist, can these results be mitigated?

22

The potentially active Malibu fault runs through the Civic Center area . Where is this fault and splays of the fault in relation to this property.

23

How will creek flooding effect this property . If building structures are elevated above the flood plain how will runoff at the lower on site elevation be handled and its negative effects if any be handled ?.

24

Project alternatives

The EIR preparer at the scoping session didn't mention the required environmentally superior alternatives it would be looking at.

We would like to suggest that one alternative that needs to be looked at is an alternative that meets the required landscape requirements .

25

Another is to look at the an alternative with no variances.

A third is residential use at one acre zoning and lastly an organic farm alternative should be studied.

Conclusion

Traffic, pedestrian safety, cultural resources etc have been raised by others so there is no need to repeat them again.

Thank you for considering these comments.

Letter No. B-1d: Malibu Coalition for Slow Growth**Response B-1d-1**

This comment is a general request and a reiteration of previously submitted scoping comments. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Response B-1d-2

No significant impacts to agricultural resources were identified in the Draft EIR as a result of implementation of the proposed project. This conclusion of no significant impact is discussed in the Draft EIR in Section 6.0, Effects Found not to be Significant, page 6.0-1.

Response B-1d-3

Public Services, including Fire Protection and Sheriff Protection Services are discussed in the Draft EIR in Sections 3.11.1 and 3.11.2, respectively. The EIR concluded that potential impacts to emergency response times and police/fire protection infrastructure would be less than significant. Potential impacts to Traffic as a result of implementation of the proposed project are discussed in the Draft EIR in Section 3.13. After mitigation, impacts to traffic and circulation were considered less than significant.

Please also refer to **Topical Response 1** and **Topical Response 2**. **Topical Response 1** provides a detailed summary of the City's Traffic Impact Assessment Guidelines and a summary of traffic and circulation data compiled for the City of Malibu over more than a decade. **Topical Response 2** summarizes the City's emergency response protocols and the relevant local, state, and federal guidance documents.

Response B-1d-4

As described in Section 3.14.3, Water Supply, the applicant has agreed to design and construct all water related property specific improvements including a 12-inch water main approximately 5,000 feet long, pump station upgrades, a regulating station, and an approximately 800,000 gallon water tank. These infrastructure improvements would be dedicated to County of Los Angeles Water Works District 29 (WWD 29) after construction is complete. These improvements are necessary in order for WWD 29 to provide the customary level of water service required by the Los Angeles County Fire Department and the commercial uses associated with the proposed project.⁹

⁹ Los Angeles County Waterworks Districts, District 29, written communication with Ramy Gindi April 9, 2014

Potential impacts to Water Supply as a result of implementation of the proposed project are more fully discussed in the Draft EIR in Section 3.14.3, Water Supply.

Please also refer to **Topical Response 2**. **Topical Response 2** summarizes the City's emergency response protocols and the relevant local, state, and federal guidance documents.

Response B-1d-5

Cumulative impacts to Water Supply as a result of implementation of the proposed and related projects are discussed in the Draft EIR in Section 3.14.3, Water Supply. Less than significant cumulative impacts on water supply were identified.

Response B-1d-6

This comment is a set of general remarks and opinions regarding the configuration and condition of roadways in the City of Malibu and their potential to limit development. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

The proposed project is in the Civic Center area of the City, served by an adequate network of roadways. The projects impacts on these roadways would be less than significant after mitigation.

Response B-1d-7

Geotechnical issues, including fault lines and seismicity, are discussed in Section 3.5, Geology and Soils, in the Draft EIR. Impacts would be less than significant.

Response B-1d-8

A discussion of existing hydrologic conditions on the project site and in its vicinity and an analysis of the potential for development of the proposed project to affect water quality, groundwater supplies, groundwater recharge, site drainage, and flooding are provided in Section 3.8, Hydrology and Water Quality, of the Draft EIR. The project site is located in area prone to flooding. As a result, the project proposes to construct building pads raised to meet FEMA and MMC Floodplain Management Ordinance requirements. Therefore, impacts were considered less than significant.

Response B-1d-9

As required by CEQA, the technical analysis contained in each topic section in the Draft EIR examines both project-specific impacts and the potential environmental effects associated with cumulative development. A listing and a map (Figure 3.0-1, Location of Related Projects) of the 39 related projects considered in this cumulative analysis is provided in Section 3.0, Environmental Impact Analysis, pages 3.0-3 through 3.0-5.

Response B-1d-10

This comment is a set of general remarks and opinions regarding alternative designs for the proposed project. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Please also refer to **Response to Comments B-1c-2 and B-1c-6**.

Response B-1d-11

A lighting plan is presented in Section 2.0, Project Description, refer to Figure 2.0-15, Site Lighting Plan. Potential impacts from nighttime lighting at the project site are described and analyzed in Section 3.1, Aesthetics, of the Draft EIR. The project's designed features include shielded pedestrian walkway and parking lot lighting, dense landscaping, and all other lighting design recommendations included in the Malibu Municipal Code.

Response B-1d-12

The landscape plans, that incorporate the plants species of both Malibu's and the Santa Monica Mountain's native coastal plant community are presented in Section 2.0, Project Description, Figures 2.0-10 through 2.0-14, which includes plans showing the proposed project's "green wall" locations and elevations.

Response B-1d-13

Potential visual impacts as a result of implementation of the proposed project are described and analyzed in Section 3.1, Aesthetics, of the Draft EIR.

Response B-1d-14

Please refer to **Topical Response 2**.

Response B-1d-15

Section 3.13, Transportation and Traffic, of the Draft EIR describes the transportation and traffic based on the Transportation Impact Analysis (TIA) prepared by Overland Traffic Consultants, Inc., (OTC) for the proposed project. OTC's analysis was subject to several rounds of peer review by both the City Public Works Department staff and the City of Malibu's consulting traffic engineer.

Please also refer to **Topical Response 1**.

Response B-1d-16

Please refer to **Response to Comment B-1d-15**.

Response B-1d-17

Please refer to **Response to Comment B-1d-4**.

Response B-1d-18

Please refer to **Topical Response 2**.

Response B-1d-19

Please refer to **Response to Comment B-1d-4**.

Response B-1d-20

Potential impacts to the local wastewater system as a result of implementation of the proposed project are described and analyzed in Section 3.14.4, Wastewater, of the Draft EIR.

Response B-1d-21

Please refer to **Responses to Comments B-1d-7 and B-1d-8**.

Response B-1d-22

Economic impacts were considered for the proposed project as part of the Coastal Development Permit applications. In addition, the City of Malibu's 2008 study of economic impacts resulting from commercial development was also considered and the City's 2014 study of fiscal impacts resulting from the implementation of the Formula Retail ordinance were considered by City Staff during the preliminary stages of EIR preparation. These studies concluded that demand for commercial retail uses in the City of

Malibu remains strong and thus it was concluded that the proposed project would not result in the physical decline of the existing businesses within the Civic Center area of Malibu or in other existing commercial shopping centers in reasonably close proximity to the proposed project. The discussion of economic effects will be included as part of the Staff Report prepared for the requested entitlement applications, which would allow the City of Malibu to consider economic factors prior to making a decision on the proposed project.

Response B-1d-23

Please refer to **Response to Comment B-1d-7**.

Response B-1d-24

Please refer to **Response to Comment B-1d-8**.

Response B-1d-25

Please refer to **Response to Comment B-1c-6**.

Jasch Janowicz

From: healypatt@aol.com
Sent: Monday, March 23, 2015 5:07 PM
To: Jasch Janowicz
Subject: Whole foods DEIR

RECEIVED
MAR 23 2015
PLANNING DEPT.

Comments of Malibu Coalition for Slow Growth
Native Tree Protection

Native protected trees are required to be protected and removed only if there is no alternative. The DEIR is incomplete since there was no alternative plan prepared to protect these trees. There was no analysis as to why the native sycamores have to be removed. Many other species may use/depend on these 8 mature trees such as the monarch butterfly whose descendants will only return to the same trees their parents and grandparents used. without the same trees the monarch can't survive.

1

Letter No. B-1e: Malibu Coalition for Slow Growth

Response B-1e-1

An alternative to the proposed project was considered that would preserve the eight sycamore trees, i.e., the Code Complying Alternative; refer to Section 4.0, Alternatives, of the Draft EIR.

Mitigation Measure 3.3-25 in the Draft EIR requires mitigation for the removal of the eight sycamore trees. With mitigation, impacts would be less than significant. The applicant will be planting 80 sycamores on-site to replace the eight to be removed under the proposed project, which complies with requirements under City's LCP and Local Implementation Plan (LIP).

The eight sycamore trees on site have not been documented as monarch butterfly over-wintering sites. This insect typically uses eucalyptus or cypress trees arranged in clusters that protect the roosting areas from winds and long-term direct sunlight, often near open fresh water; because of the existing arrangement of trees, there would be no impact to overwintering monarch butterflies.

Jasch Janowicz

From: Poison Free Malibu <poisonfreemalibu@gmail.com>
Sent: Sunday, March 22, 2015 9:41 PM
To: Jasch Janowicz
Subject: Whole Foods and the Park Shopping Center Draft EIR comment

Jasch Janowicz, Contract Planner
 City of Malibu
 Planning Department
 23825 Stuart Ranch Road
 Malibu, CA 90265
 Email: jjanowicz@malibucity.org

March 22, 2015

RECEIVED
 MAR 22 2015
 PLANNING DEPT.

Re: Whole Foods and the Park Shopping Center Draft EIR

Dear Mr. Janowicz,

We of Poison Free Malibu would like to point that the Draft EIR is deficient in its analysis of certain pesticides, especially rodent poisons. The Impact Analysis concerning Threshold 3.7.1 on hazardous waste, page 3.7-12, ignores recent developments.

1) The California Coastal Commission and the Los Angeles County Board of Supervisors passed a new Santa Monica Mountains Coastal Program for the unincorporated portions of the Santa Monica Mountains in the Coastal Zone including the following clause in the Local Implementation Program (http://planning.lacounty.gov/assets/upl/project/coastal_adopted-LIP.pdf, page 180):

“22.44.1240 B.13. The use of insecticides, herbicides, anti-coagulant rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources in the Santa Monica Mountains shall be prohibited, except where necessary to protect or enhance the habitat itself, such as for eradication of invasive plant species or habitat restoration, and where there are no feasible alternatives that would result in fewer adverse effects to the habitat value of the site.”

This does not at present apply directly to Malibu, which has its own LCP. However, this more recent clause is more consistent with the current policy of the Coastal Commission and should be enforced for this development for three reasons.

1) The City of Malibu City Council unanimously on December 8, 2014 voted to start the process to amend the Malibu LCP to include a ban on anticoagulant rodent poisons. The approval process is proceeding rapidly and is expected in due course.

2) The Coastal Commission includes a ban on anticoagulant rodenticides in its permits with language such as “*The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) is prohibited.*” One typical recent example can be found at <http://documents.coastal.ca.gov/reports/2014/10/W7a-10-2014.pdf>, page 5. This has become a standard permit requirement.

3) The City of Malibu has banned the use of anticoagulant rodenticides on its own properties and requests that they not be sold or used in the city. A July 8, 2013 Resolution explicitly states

“The City Council urges businesses in Malibu to no longer use or sell anticoagulant rodenticides, urges all property owners to cease purchasing or using anticoagulant rodenticides on their properties in Malibu and commits the City of Malibu to not use anticoagulant rodenticides as part of its maintenance program for City-owned parks and facilities.”

This realization of the dangers of anticoagulant rodenticides motivated the National Park Service to alert the City of Malibu in a July 8, 2013 letter –

“National Park Service scientists have been studying carnivores in the Santa Monica Mountains for almost two decades. Our studies include observations and data collection on bobcats, coyotes, and mountain lions. In these studies we have found widespread exposure to and large impacts of anti-coagulant rodenticides on all three of these carnivores. Our research suggests an interaction between anti-coagulant rodenticide exposure and death from mange and mange deaths resulted in the complete loss of bobcats from many open space areas in the Conejo Valley.

1

Our studies have found anti-coagulant rodenticide poisoning to be a leading cause of death for many carnivores. ... In addition, two mountain lions died directly from anti-coagulant rodenticide poisoning in 2004, and in our ongoing mountain lion study we find death from anti-coagulant poisoning to be the third leading cause of death for mountain lions.

Our studies also show widespread exposure to these chemicals across carnivores in our region. We found a 90% exposure rate of bobcats to anti-coagulant rodenticides (Riley et al. 2007, Riley et al. 2010), 7 of 8 mountain lions tested had been exposed (Beier et al. 2010), and 83% of coyotes had been exposed (Gehrt and Riley 2010). Moreover, for all of these species, 2/3 of the exposed animals had evidence of 2-5 different rodenticide compounds and sometimes in large amounts, indicating multiple exposure events.”

For these reasons, we strongly urge the DEIR be modified to completely ban the use of all anticoagulant rodenticides in this project. We further urge that the most recent policy included in the Santa Monica Mountains Local Coastal Program be followed concerning all pesticides – *“The use of insecticides, herbicides, anti-coagulant rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources in the Santa Monica Mountains shall be prohibited, except where necessary to protect or enhance the habitat itself...”*

Sincerely,

Joel Schulman
Poison Free Malibu
PoisonFreeMalibu@gmail.com
EarthFriendlyManagement.com
1832 Lookout Road
Malibu, CA 90265

Letter No. B-2 Poison Free Malibu

Response B-2-1

This comment includes a summary of recent standards adopted by the County of Los Angeles and a summary of preliminary discussions that have occurred in recent Malibu City Council and California Coastal Commission public hearings regarding the use of insecticides, herbicides, anti-coagulant rodenticides or other toxic chemicals with the potential to degrade biological resources in coastal environments. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

However, the applicant team, construction contractors, and future tenants of the project have expressed a commitment to use and handle all pesticides at the project site in compliance with applicable local, state, and federal standards and regulations, including the pending City ban on the use of anticoagulant rodenticides.

The applicant is committed to using an Integrated Pest Management (IPM) approach at the project site.

IPM is a managed pest management system that:

- eliminates or mitigates economic and health damage caused by pests;
- minimizes the use of pesticides and the risk to human health and the environment associated with pesticide applications; and,
- uses integrated methods, site or pest inspections, pest population monitoring, an evaluation of the need for pest control, and one or more pest control methods, including sanitation, targeted exclusion techniques, mechanical and living biological controls, other non-chemical methods, and, if nontoxic options are unreasonable and have been exhausted, the use of least toxic pesticides.

RECEIVED

MAR - 2 2015

PLANNING DEPT.

SCPOA
SERRA CANYON PROPERTY OWNER'S ASSOCIATION
"WHOLE FOODS IN THE PARK"
DRAFT EIR
COMMENTS FOR SCOPING MEETING
MARCH 2, 2015

Good Evening Honorable Planning Commissioners, thank you for giving me the opportunity to comment on the Draft EIR recently submitted for "Whole Foods in the Park".

My name is Jeff Follert; I am President of the Serra Canyon Property Owner's Association—or SCPOA. SCPOA is an organization of approximately 110 Properties in the Serra Canyon neighborhood who share common ingress and egress easements on private roadways. These shared easements originate and terminate at two primary points: at Serra Road and PCH and at Cross Creek Road and Civic Center Way. Both access points are required Fire Department Emergency primary and secondary access points for all properties in our neighborhood.

1

As I am certain you know, the Environmental Impact Report is lengthy and includes detailed study by various consultants to the Project. I am not, and we are not sophisticated Planning analysts. Our comments tonight are somewhat general in nature, but speak to the very real concerns of our community with regard to the project's independent and cumulative impact on Civic Center area traffic, and the health and safety of our residents. We looked generally at traffic impact, but after further review, we may comment more specifically on this and other Project impact concerns.

Our preliminary review of the Project's Traffic Study resulted in many questions and raised doubt as to the practical reality of the impact analysis.

1. The report seems to indicate that of the intersections studied, only three were potentially impaired and proposed for mitigation; these are PCH and Cross Creek Road—at PCH, PCH and Webb Way—at PCH, and Webb Way and Civic Center Way---at Webb Way. Cross Creek Road and Civic Center Way—the intersection that is directly adjacent to the project and most impacting Serra Canyon Property Owners was cited as "having no impact" from the proposed Project. Despite the

2

Date Received 03-02-15 Time 6:30 pm
Planning Commission meeting of 03-02-15
Agenda Item No. 5A
Total No. of Pages 3

- | | |
|---|---|
| <p>Traffic Engineers estimates, SCPOA requests a <u>further detailed analysis</u> of the real and potential impacts on this most critical intersection.</p> | 2 |
| <p>2. The report indicates that “three-axle” truck traffic will be limited to ingress and egress through the “main” Civic Center Way driveway. The report states that this will be accomplished by these vehicles being “prohibited” from using “the private section” of Cross Creek Road. How will this effectively be controlled—by signage? <u>This will never work</u>. Furthermore, many, if not a majority of delivery vehicles for a market, two restaurants, and retail stores are <u>NOT</u> “three axle” vehicles.</p> | 3 |
| <p>3. Cross Creek Road is a Private Roadway and is a primary or secondary point of ingress, egress, and emergency services for all Serra Canyon residents. In at least one event during the fires of the 1990’s, Serra Road Access was entirely fire involved; Residents and Emergency vehicles were limited to the Cross Creek Road access point. Historically—and for many years, the private Cross Creek Road’s use has been limited to residents and a limited number of low impact businesses. The “practical” potential impact and use of the “secondary” driveway on Cross Creek Road <u>needs further analysis</u>. <u>The proposed use is active and significant—it will impact the safety of Serra Canyon</u>. If the access point is included to meet project “emergency access” requirements, at a minimum, consideration should be given to “Emergency Use Only”--controlled by gate and “Knox” key.</p> | 4 |
| <p>4. The Cross Creek Road and Civic Center Way intersection was considered a “three way intersection” in the Traffic Study. With the approval of and use by the “Urban Outfitters” property parking area and the alignment of their driveway, the intersection has become “four-way” and should be analyzed as such. The impact of a new ‘driveway’ cut from private Cross Creek Road needs far greater scrutiny.</p> | 5 |
| <p>5. Serra Canyon feels strongly that the project traffic analysis should be viewed in its cumulative effect. With the existing Development Agreement for La Paz, the Santa Monica College use of the County Buildings, the potential of other commercial developments, the Project’s EIR should include the cumulative impact of other approved and proposed developments in the Civic Center area. If the applicant, for some reason is not required to provide this, the CITY should step in and provide it.</p> | 6 |

Serra Canyon Property Owners Association (SCPOA) is deeply concerned about the potential impact of this project on the traffic, health, and safety of our Property Owners and Residents. Please, do not simply accept the studies provided by the applicant without further independent analysis. We respectfully request a “real world” analysis—with significant opportunity for input by Serra Canyon—by far the potential Project’s most affected Residential Neighborhood.

7

Thank you for your time this evening,
Jeff Follert

Letter No. B-3 Serra Canyon Property Owners Association

Response B-3-1

This comment is a set of general introductory remarks and opinions. The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.

Response B-3-2

Please refer to **Topical Response 1**.

Response B-3-3

This comment expresses concerns about three-axle truck traffic utilizing the private section of Cross Creek Road, north of its intersection with Civic Center Way. As described in the Draft EIR Section 3.13, Traffic and Circulation, the proposed project would generate 2,290 weekday vehicle trips with 101 AM peak hour trips and 154 PM peak hour trips. In addition, the proposed project would generate an estimate 2,528 weekend trips with 226 weekend mid-day trips. Truck deliveries were included in these estimated trip generation figures. The Civic Center Way driveway would serve as the main entrance and exit for the shopping center. The driveway exit would have a stop sign at its intersection with Civic Center Way. The driveway would accommodate vehicular access to all on-site parking and to the service road located along the westerly property line which also provides truck access to the loading docks located behind the proposed Whole Foods market. Full access would be provided at the Civic Center Way driveway (i.e., left-turn and right-turn ingress and egress). The project design accommodations combined with the required intersection improvements would ensure that traffic impacts resulting from truck deliveries would be less than significant. In addition, the City of Malibu will be including operational conditions of approval restricting the timing of truck deliveries to the project site to off-peak periods, restricting the truck traffic on the private section of Cross Creek Road (north of Civic Center Way), and restricting the use of Cross Creek Road (south of Civic Center Way) as a travel routes for large delivery trucks to off-peak periods. These restrictions will be enforced by the property owner as part of the project's covenants, codes, and restrictions (CC&Rs) or by another appropriate legal instrument as a condition of approval.

Response B-3-4

Please refer to **Topical Response 2**.

Response B-3-5

Draft EIR Section 3.13, Traffic and Circulation, identified the intersection of Cross Creek Road and Civic Center Way as a four way intersection. Please refer to Figures 3.13-2 through 3.14-4, Figures 3.13-8 through 3.13-16, and Figures 3.13-20 through 3.13-25. The anticipated volume of vehicle trips utilizing the “driveway cut” proposed on the private section of Cross Creek Road during the AM/PM peak hour periods was analyzed in the Draft EIR.

Response B-3-6

Please refer to **Response to Comment B-1d-9**.

Response B-3-7

The comment does not raise a specific environmental issue within the meaning of CEQA, and therefore no further response is provided.

Please also refer to **Topical Response 1** and **Topical Response 2**.