



AGENDA

**San Rafael Planning Commission
Regular Meeting
Thursday, November 12, 2020, 7:00 P.M.**

Virtual Meeting

(669) 900-9128

Meeting ID: 872-0645-4435#

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be streamed through YouTube Live at www.youtube.com/cityofsanrafael. Comments submitted via YouTube Live must be submitted according to the directions located on the YouTube video description. The City is not responsible for any interrupted service. To ensure the Planning Commission receives your comments, submit written comments to Alicia Giudice, Principal Planner (alicia.giudice@cityofsanrafael.org), prior to the meeting. For more information regarding real-time public comments, please visit our Live Commenting Pilot page at <https://www.cityofsanrafael.org/live-commenting-pilot/>.

Want to listen to the meeting and comment in real-time over the phone? Call the telephone number listed on this agenda and dial the Meeting ID when prompted. Feel free to contact the City Clerk's office at 415-485-3066 or by email to lindsay.lara@cityofsanrafael.org if you have any questions.

Any member of the public who needs accommodations should contact the City Clerk (email lindsay.lara@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

Members of the public may speak on Agenda items.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

URGENT COMMUNICATION

Anyone with an urgent communication on a topic not on the agenda may address the Commission at this time. Please notify the Community Development Director in advance.

CONSENT CALENDAR

- 1. Approval of the Planning Commission Meeting Minutes of October 27, 2020**
Recommended Action – Approve as submitted

PUBLIC HEARING

2. Public Hearing on Chapters 10-14 of Draft San Rafael General Plan 2040 (Continued from 10/27/20)

The Planning Commission will conduct its second public hearing on the Draft General Plan 2040 on November 12. The November 12 hearing will cover Chapters 10-14 of the Draft Plan (now available for review at www.sanrafael2040.org). A prior hearing on Chapters 1-9 took place on October 27. The purpose of each hearing is to receive initial public comments on the Draft Plan chapters. Opportunities for public comment will continue at future hearings to be convened in December 2020 and early 2021, concurrently with review of the Downtown Precise Plan and a Draft Environmental Impact Report covering both projects. The Commission is tentatively scheduled to take action on the 2040 General Plan in March 2021. Case Nos.: GPA16-001 & P16-013
Case Nos. GPA16-001 & P16-013.

Project Planner: Barry Miller

Recommended Action – Accept report, provide comments and and continue to Commission meeting of December 15, 2020

DIRECTOR'S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

Any records relating to an agenda item, received by a majority or more of the Commission less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.

The Planning Commission will take up no new business after 11:00 p.m. at regularly scheduled meetings. This shall be interpreted to mean that no agenda item or other business will be discussed or acted upon after the agenda item under consideration at 11:00 p.m. The Commission may suspend this rule to discuss and/or act upon any additional agenda item(s) deemed appropriate by a unanimous vote of the members present. Appeal rights: any person may file an appeal of the Planning Commission's action on agenda items within five business days (normally 5:00 p.m. on the following Tuesday) and within 10 calendar days of an action on a subdivision. An appeal letter shall be filed with the City Clerk, along with an appeal fee of \$350 (for non-applicants) or a \$4,476 deposit (for applicants) made payable to the City of San Rafael, and shall set forth the basis for appeal. There is a \$50.00 additional charge for request for continuation of an appeal by appellant.



**San Rafael Planning Commission
Regular Meeting Minutes
Tuesday, October 27, 2020, 7:00 P.M.**

**Virtual Meeting
(669) 900-9128
Meeting ID: 897-5534-1830#**

CORONAVIRUS (COVID-19) ADVISORY NOTICE

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Present: Chair Mercado
Commissioner Davidson
Commissioner Hill
Commissioner Previtali
Commissioner Samudzi
Commissioner Saude

Absent: Commissioner Lubamersky

Also Present: Raffi Boloyan, Planning Manager
Alicia Giudice, Principal Planner
Barry Miller, Project Planner
Paul Jensen, Community Development Director

CALL TO ORDER

Chair Mercado called the meeting to order at 7:01 p.m. and invited Principal Planner Alicia Giudice to call the roll. All commissioners were present, except for Commissioner Lubamersky.

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

None.

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Mercado invited Planning Manager Raffi Boloyan who informed the community the meeting would be streamed live to YouTube and members of the public would provide public comment either on the telephone or through YouTube live chat. He explained the process for community participation through the telephone and on YouTube.

Chair Mercado reviewed the procedures for the meeting.

URGENT COMMUNICATION

None.

CONSENT CALENDAR

Chair Mercado invited public comment; however, there was none.

Commissioner Davidson moved and Commissioner Samudzi seconded to approve the Consent Calendar.

1. Approval of the Planning Commission Meeting Minutes of October 13, 2020

Approved as submitted

AYES: Commissioners: Davidson, Hill, Previtali, Samudzi, Saude & Chair Mercado

NOES: Commissioners: None

ABSENT: Commissioners: Lubamersky

ABSTAIN: Commissioners: None

Motion carried 6-0

PUBLIC HEARING

2. Project: General Plan 2040

The Planning Commission will conduct its first public hearings on the Draft General Plan 2040 on October 27 and November 12, 2020. The October 27 hearing will cover Chapters 1-9 of the Draft Plan (now available for review at <https://www.sanrafael2040.org>). The November 12 hearing will cover Chapters 10-14. The purpose of each hearing is to receive initial public comments on the Draft Plan chapters. Opportunities for public comment will continue at future hearings to be convened in December 2020 and early 2021, concurrently with review of the Downtown Precise Plan and a Draft Environmental Impact Report covering both projects. The Commission is tentatively scheduled to take action on the 2040 General Plan in March 2021. The City Council will hold public hearings following Planning Commission action. Case Nos. GPA16-001 & P16-013.
Project Planner: Barry Miller

Barry Miller, Project Planner presented the staff report.

Staff responded to comments and questions from the Commissioners.
Chair Mercado declared the public hearing opened.

Speakers: Laura Silverman, Claire Halenbeck, Scott Frerich, Susan Coleman, Regina Kretschmer, Pamela Reaves, Laurie Pirini, Shirley Fischer, Chris Hart, Kate Powers, Bill Carney, Roger Smith, David Smith, Barbara Salzman

Staff responded to public comments.

Commissioners responded to public comments.

Barry Miller, Project Planner discussed in order chapters 1-9 of the Draft Plan. He and Paul Jensen, Community Development Director responded to comments and questions from the Commissioners after each chapter.

Commissioner Previtali moved and Commissioner Samudzi seconded to accept the report, provide their comments as discussed throughout the meeting, and continue the hearing to November 12, 2020 for the remaining chapters

AYES: Commissioners: Davidson, Hill, Previtali, Samudzi, Saude & Chair Mercado

NOES: Commissioners: None

ABSENT: Commissioners: Lubamersky

ABSTAIN: Commissioners: None

Motion carried 6-0

DIRECTOR'S REPORT

Alicia Giudice, Principal Planner announced:

- Marin County has moved into Tier 3 in regards to the Shelter in Place Order, and City Hall is starting a reopening process
- City furlough days coming up on November 9 and 10, and Veterans Day on November 11, so offices will be closed
- City furlough days on November 23, 24 and 25 before Thanksgiving, so City Hall is closed the entire week
- General Plan updates coming up in November and December
- Due to furlough days and holidays, upcoming Planning Commission meetings to be held on November 12, November 17, December 8 and December 15.
- November 24 and December 29th Planning Commission meeting will be cancelled

COMMISSION COMMUNICATION

None.

ADJOURNMENT

Chair Mercado adjourned the meeting at 10:15 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2020

ALDO MERCADO, Chair

DRAFT



SAN RAFAEL

THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: November 12, 2020

Agenda Item: 2

Case Numbers: GPA16-001 & P16-13

Project Planner: Barry Miller, Consulting Project Manager (415) 485-3423

REPORT TO PLANNING COMMISSION

SUBJECT: Public Hearing on Chapters 10-14 of Draft San Rafael General Plan 2040

The Planning Commission will conduct its second public hearing on the Draft General Plan 2040 on November 12. The November 12 hearing will cover Chapters 10-14 of the Draft Plan (now available for review at www.sanrafael2040.org). A prior hearing on Chapters 1-9 took place on October 27. The purpose of each hearing is to receive initial public comments on the Draft Plan chapters. Opportunities for public comment will continue at future hearings to be convened in December 2020 and early 2021, concurrently with review of the Downtown Precise Plan and a Draft Environmental Impact Report covering both projects. The Commission is tentatively scheduled to take action on the 2040 General Plan in March 2021. Case Nos.: GPA16-001 & P16-013.

EXECUTIVE SUMMARY

The City has initiated the public hearing process for General Plan 2040, the state-mandated document that guides San Rafael's long-term growth and development. General Plan 2040 will update and replace General Plan 2020, which was adopted in 2004. Work on the General Plan Update began approximately three years ago. The City has prepared an Environmental Impact Report (EIR) for General Plan 2040, to be released at the end of November. A Downtown Precise Plan, also scheduled for release as a public review draft in late November, has been prepared concurrently with the General Plan and is also covered by the EIR.

A hearing on Chapters 1-9 took place on October 27. That hearing was continued to November 12 for consideration of Chapters 10-14. Comments on Chapters 1-9 may continue be made at the November 12 hearing.

Chapters 10-14 of the General Plan are organized in two batches:

- "Connecting the City" (Chapters 10-12) includes the Mobility (Transportation) Element, the Community Services and Infrastructure Element, and the Arts and Culture Element.
- "Opportunity for All" (Chapters 13-15) includes the Economic Vitality Element, the Equity, Diversity, and Inclusion Element, and the Housing Element. The Housing Element is not being updated at this time and will not be discussed at this hearing.

Staff will provide a short overview of each chapter at the hearing, focusing on changes between General Plan 2020 and General Plan 2040.

Following staff's presentation and an opportunity for clarifying questions, members of the public will have an opportunity to address the Commission. The Commission will then have an opportunity to discuss Chapters 10-14 individually, addressing any specific issues or questions with each chapter. At the conclusion, the public hearing will be continued to December 15, 2020. Staff will return with a follow-up of the entire Draft Plan on December 15, 2020, to provide any updates, responses to questions or other follow up requested by the Commission. A presentation on the Downtown Precise Plan will be made at

that hearing. The Commission will consider the Draft Plan, including the EIR and the Downtown Precise Plan for final review and recommendation in March 2021. This is a tentative timeline.

The Planning Commission is reminded that General Plan 2040 is not a “brand new plan,” but rather an update of General Plan 2020. A considerable number of policies and programs have been carried forward from the existing Plan. As needed, these policies and programs have been edited and updated to reflect current conditions and priorities. New policies and programs have been added to address trends, emerging issues, new State laws, and Steering Committee input.

RECOMMENDATION

It is recommended that the Planning Commission take the following actions, following the staff presentation on General Plan 2040:

1. Re-open the public hearing on Draft General Plan 2040
2. Receive public comments and testimony
3. Discuss Draft Chapters 10-14, as well as any public comments received
4. Continue the hearing to December 15, 2020 for further public testimony and discussion

PROJECT BACKGROUND

General Plan 2040 Overview:

On September 15, 2020, Staff provided an overview of the General Plan Update program to the Planning Commission. That report may be reviewed [here](#). The presentation delivered to the Planning Commission may be reviewed at this [link](#) and begins 1 hour and 17 minutes into the broadcast. Please review the prior report (or presentation) for an overview of the planning process, including topics such as community engagement, the EIR, and the Downtown Precise Plan.

As noted in the prior report, the General Plan is organized into “elements” or topical chapters. Eight elements are required by state law, but San Rafael’s existing Plan also includes “optional” elements on topics of local importance. A comparison of the elements in General Plan 2020 and the new General Plan 2040 is provided below. Elements shown in **blue** were discussed on October 27, while elements shown in **brown** will be discussed on November 12:

General Plan 2020	General Plan 2040
Land Use (*)	Land Use (*)
Neighborhoods	Neighborhoods
Community Design	Community Design and Preservation
Conservation (*)	Conservation and Climate Change (*)
Air and Water Quality	
Sustainability	
Parks and Recreation	Parks, Recreation and Open Space (*)
Open Space (*)	
Safety (*)	Safety (*)
Noise (*)	Noise (*)
Circulation (*)	Mobility (*)
Infrastructure	Community Services and Infrastructure
Culture and Arts	Arts and Culture
Economic Vitality	Economic Vitality
Governance	Equity, Diversity, and Inclusion (*)
Housing (*)	Housing (*) –

(*) mandatory element

Steering Committee and Prior Public Review of Goals, Policies and Programs:

As discussed in the October 27 staff report, General Plan 2040 has been vetted with a General Plan 2040 Steering Committee appointed by the City Council in December 2017. The Committee represented a diverse cross-section of the community and spent more than 75 hours in meetings over 30 months discussing the Draft policies. Their work included a review and “audit” of the prior plan’s policies, a review of a “first draft” of new policies (presented side by side with the prior Plan’s policies), a review of a “second” draft showing tracked changes, and a review of a third draft of the complete plan, with all policies and programs integrated and formatted.

Neighborhood Input:

As discussed in the October 27 staff report, the Neighborhoods Element of the Draft General Plan was updated through direct input from community organizations and neighborhood residents, including an on-line survey and direct meetings with neighborhood groups. Staff also met with neighborhood groups throughout the planning process to discuss citywide issues and other General Plan topics. The October Staff report includes further detail on this input.

Land Use Map:

As discussed in the October 27 staff report, the General Plan Land Use Map has been updated as part of General Plan 2040. The Commission conducted a public hearing on the update on February 11, 2020. A link to the staff report for that meeting is provided [here](#).

Programs:

As discussed in the October 27 staff report, each element of the General Plan is comprised of goals, policies and programs. Programs are the mechanism through which the Plan’s policies are implemented over the 20-year timeframe of the Plan. Programs identify 1) the steps that will be taken to implement a specific policy, 2) which Department(s) is (are) responsible for implementation, 3) the timeline for implementation (short, medium, long term, or on-going); and 4) the resources available for carrying out the program, such as staff time, grants, fees, etc. An Implementation Appendix is being prepared to present that information. Implementation of the General Plan is dependent on the City budget and availability of funds to take on certain tasks.

ANALYSIS

This section of the staff report highlights the contents of General Plan Chapters 10-14.

Chapter 10: [Mobility Element](#)

The Mobility Element replaces the Circulation Element of General Plan 2020. New data has been added on current (2019) and projected (2040) traffic volumes, congestion levels, and commute patterns. The Element carries forward many of the policies in General Plan 2020 but makes important changes that are highlighted below:

- Goal 1 continues to focus on San Rafael’s role as a regional leader in transportation planning. A new program has been added on improvements to the US 101/ I-580 interchange.
- The focus of Goal 2 has shifted to improving transportation efficiency. This aligns the City’s transportation plans with best practices, regional plans, and the *Climate Change Action Plan*. It further recognizes that the response to congestion during the 1980s, 90s, and early 2000s was to widen roads and add travel lanes—actions that, if continued, could conflict with the City’s greenhouse gas reduction strategies. Moreover, the physical impacts of expanding the road

network to eliminate congestion would adversely affect community character and the costs would be prohibitive.

The updated policies in General Plan 2040 retain Level of Service (LOS) as a tool for monitoring road and intersection performance and evaluating the impacts of future development projects on travel delays as part of a project's merits review. State law (SB 743) now prohibits the City from using LOS as a threshold in environmental review documents (Initial Studies, Negative Declarations and EIRs), and thus the policy language has been modified accordingly. Goal 2 also includes an updated list of transportation improvements. The list has been streamlined from General Plan 2020, as many of the improvements in General Plan 2020 have been completed. A greater emphasis is placed on multi-modal projects, including bicycle and pedestrian improvements and technology improvements.

- Goal 3 (Cleaner Transportation) is new and further links the Mobility Element to the City's *Climate Change Action Plan*. This goal seeks to reduce vehicle emissions by reducing driving and encouraging cleaner fuel and electric vehicles. The policies establish Vehicle Miles Traveled (VMT) as the threshold for determining if a project will have a "significant" impact on the environment as defined by CEQA. This shift was required to be implemented by July 2020 and is taking place throughout California, although San Rafael is the first city in Marin County to formally adopt a VMT standard. Policies also support transportation demand management programs (carpooling, telecommuting, etc.) to reduce VMT and mitigate the impacts of new development. Policies and programs advocate for additional investment in electric charging infrastructure in new development and throughout the city.
- Goal 4 is a new goal, focusing on public transportation. Because the services addressed here are largely provided by other agencies (SMART, Marin Transit, GGBHTD), the policies emphasize coordination, support for transit improvements, and land use choices that help sustain transit. The policies acknowledge the impacts of the pandemic on public transit, and the need for strategies to address economic viability, as well as immediate concerns around public health and safety.
- Goal 5 combines General Plan 2020 goals on neighborhood connections and transportation safety. It aims to reduce the impacts of traffic on neighborhoods through traffic calming, management of school traffic, truck regulations, and more attractive roadway design. It also seeks to better connect different parts of the city, including the east and west sides of US 101, and the Canal area and Downtown/ Montecito.
- Goal 6 combines two goals in General Plan 2020 (relating to walking and bicycling, respectively) into a single goal that aligns with the City's Bicycle and Pedestrian Master Plan. Policies and programs reflect the direction provided by that Plan.
- Goal 7 carries forward General Plan 2040 policies on parking, with updates to reflect best practices and recommendations from recent plans and studies.

The most significant change in the updated Element is the addition of VMT as a planning tool, as required by State law. Staff solicited input from the City Council on this issue throughout the General Plan Update, with Council discussions in June 2019, December 2019, and July 2020. Staff initially presented the Council with several options, including eliminating Level of Service (LOS) standards entirely (this has been done in cities like Pasadena and Oakland), creating a modified version of LOS, or retaining LOS as is.

There was broad agreement among Council members that LOS should be retained as part of the General Plan for merit reviews of projects. The Council observed that LOS and VMT measured different aspects of the transportation system---LOS is a measure of local congestion whereas VMT is a measure of how many vehicle miles a project will induce across the entire region. Both metrics will be used in the future. The revised LOS policy includes certain exemptions (Downtown, freeway interchanges, etc.), as well as findings for exceptions.

The community was heavily involved in the review of proposed LOS and VMT policies. In particular, Responsible Growth in Marin (RGM) provided comments on the draft policies and background reports. Staff incorporated many of their recommendations in the revised policy that was ultimately endorsed by Council. Based on feedback from RGM and the City Council, staff is proceeding with the development of more specific guidelines for how VMT studies will be conducted, and for preparing traffic studies that are consistent with the new LOS policies. This work is now underway.

Chapter 11: Community Services and Infrastructure Element

The topics covered in this Element were previously addressed in five different elements in General Plan 2020. Schools were previously addressed in the Governance Element, libraries were addressed in the Culture and Arts Element, police and fire were addressed in the Safety Element, and solid waste was addressed in the Sustainability Element. The prior Infrastructure Element only covered sewer, water, drainage, and telecommunication facilities. General Plan 2040 places all these topics in a single element, recognizing their common connection as services provided by the City and a variety of special districts.

Policies and programs on each topic have been carried forward from General Plan 2020 and updated as needed through Steering Committee input. As appropriate, the text has been updated to reflect information provided by each service provider, either through interviews or through staff review of their strategic plans and Master Facilities Plans. The revised policies include greater focus on “green” infrastructure (bio-retention facilities, recycled water, renewable energy, etc.), modern telecommunication needs (fiber optics, etc.), updated analyses of school and library facility and technology needs, and best practices in the delivery of police and fire services.

Chapter 12: Arts and Culture Element

This Element has been reorganized to focus more directly on the arts in San Rafael. In General Plan 2020, this Element also covered libraries and historic preservation, which are both now addressed in other elements. Staff worked with representatives from San Rafael’s arts community to draft policies and programs that are responsive to local needs and priorities. A substantial number of new policies and programs have been introduced—many support the Plan’s theme of embracing San Rafael’s cultural diversity and ensuring that arts programming is inclusive. The policies also recognize the economic potential of the arts, as well as the need for programs to help sustain and support arts activities.

Chapter 13: Economic Vitality Element

Policies from General Plan 2020 have been carried over and reorganized, and the goals have been realigned to focus on three priorities: (1) a healthy and resilient economy; (2) a diverse and balanced business mix; and (3) distinctive business districts. Policies under the first goal emphasize the importance of strong relationship between the City and the business community, as well as policies to retain and grow local businesses and attract new investment to the City. Policies also address the need for workforce housing, job training and development programs, and an innovation-friendly environment.

Policies under the second goal (diverse and balanced business mix) are organized by economic sector. These policies address the future of retail, office, industrial, hospitality, health care, government, and education activities, among others. The third goal includes strategies for strengthening San Rafael’s business districts and leveraging assets such as the waterfront and transportation facilities.

Chapter 14: [Equity, Diversity, and Inclusion Element](#)

This is a new Element and meets the State requirement to address environmental justice in the General Plan. State law (SB 1000) requires that the General Plan include policies to address the disparate impacts of past land use, transportation, and housing decisions on disadvantaged communities in each jurisdiction. In San Rafael, the Canal neighborhood meets the State criteria for a disadvantaged community and is the focus of many of the policies and programs. However, the element takes a broader look at equity and inclusion issues throughout San Rafael.

The six goals in this element address: (1) Authentic and Inclusive Public Participation; (2) Healthy Communities and Environmental Justice; (3) Housing Stability; (4) Equitable Service Delivery; (5) Access to Education and Economic Opportunity; and (6) An Age-Friendly Community. Some of the policies and programs are informed by a Spanish language oral survey completed through in-person interviews with 135 residents of the Canal area. A summary of the survey can be found [here](#).

Chapter 15: [Housing Element](#)

As previously stated, the Housing Element was adopted in 2015 and has an eight-year horizon (2023). The Element will be updated in 2021-2022, as required by State law, with the horizon extended to 2031. No substantive edits to the Housing Element are being made through General Plan 2040, other than those required for internal consistency.

CORRESPONDENCE

Correspondence from Marin Audubon was received on November 3, 2020 and is included with this Staff Report. Additional correspondence may be received prior to the Commission hearing and will be forwarded to Commissioners as it arrives.

ATTACHMENTS

While there are no attachments to this Staff report, General Plan 2040 is available for review on line at www.sanrafael2040.org. (click on the "General Plan Documents" tab when the site opens).

EXHIBITS

1. Public correspondence



Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

October 27, 2020

San Rafael Planning Commission

Barry.miller@cityofsanrafael.org

c/o alicia.giudice@cityofsanrafael.org

lindsay.lara@cityofsanrafael.org

Att: Barry Miller

RE: Comments on Draft San Rafael General Plan 2040

Dear Commissioners:

The Marin Audubon Society appreciates your consideration of our comments on sections of the Draft San Rafael General Plan 2040 that address wetlands, including Canalways, special status species, and native trees. We will likely provide additional comments during the course of environmental review. Our current comments are:

Canalways

Our primary concern and alarm is about the Canalways site. Policies NH 3.24, Program NH 3.42A and the Spotlight discussion on page 4-49 fail to recognize and acknowledge that there has been close to a 50 years effort on the part of the environmental community to protect this site from being developed. To protect its resource values, Marin Audubon first attempted to purchase the site on tax default sale when it was in the original ownership of the pyramid company, Holiday Magic. Unfortunately, the current developers were able to purchase the property in spite of Marin Audubon's effort which included funding from the State Coastal Conservancy. Since then, Marin Audubon and other organizations have supported efforts by regional agencies to reject development of the property and reported infractions. A second attempt to purchase the property occurred five years ago.

Apparently all of that history has been lost, as the currently proposed policies would allow for increased development. The most shocking statement in Policy NH 3-24 is "Development should be economically viable for the site's owners..." In our more than 40 years of reviewing general plans, we have never seen such a statement in a general plan. That is because providing guarantees for the property owner is completely inappropriate for a general plan and should be deleted.

Regarding the remainder of the policy, any development should protect the site's resources (not just "be responsive to"), and development should be confined to the existing higher elevation areas. A word of caution about the biological assessment and jurisdictional delineation called for in the program. Rainwater has been pumped from the site by the city for at least the past 20 years under threat of legal action by the property owner. This removal of water may have affected the condition of the wetlands on the site. So to rely on a jurisdictional delineation prepared by the applicant's consultant would not necessarily reflect the condition of the site under normal circumstances, i.e. if artificial removal of the water did not occur. There is no shortage of environmental consultants who can promise anything.

Further the invasive plants that have proliferated on the property are the direct result of neglect by the property owners. Neglect and removal of water, are among the approaches taken by property owners in efforts to avoid a property being delineated as a wetland.

We support the protection of the low area of Canalways for its ecological importance, retention of the Wetlands Overlay Zone and Conservation designation. We support policies in the current general plan that all development, whether industrial or housing be confined to the higher elevation lands along the west side of the property only. The Canalways levee has indeed deteriorated and will be the last degraded low area along the waterfront after completion of Marin Audubon's Tiscornia Marsh Project.

Regarding the extension of Kerner, in the past, the city was not supportive of extending this his road. To do so would require filling wetlands, unless the connection were a bridge.

Wetland Preservation Policy C-1-1

We support protection of the city's wetlands and the city should have the first regulatory review. The discussion of the regulatory processes is confusing. It sounds like the city will rely on federal, state and regional agencies instead of their own regulatory powers.

The processes of wetland regulation is more effective if the local jurisdictions implement their own ordinances first. Clear policies send a clear message to project proponents. Regulation by state and federal agencies is required and actually does not need to be mentioned in policies.

Program C-1.1A Agencies have different wetland definitions than that of the Corps of Engineers. This should be broadened to ensure the wetland definitions of the state (RWQCB and BCDC) and federal (ACOE) agencies are considered.

Program C-1.1B We strongly support this policy which supports our Tiscornia Marsh restoration and Seal Level Rise Adaption project on Marin Audubon and city property along the shoreline.

Policy C-1.3 Wetland Protection and Mitigation

This policy offers unacceptable exceptions to protecting wetlands, particularly the exception if the protection is not "practical." This is a very easy standard to meet – it just needs to be undesirable and/or not of interest to the project proponent. It offers an easy out, is far too broad and it does not comply with the intent of the policy.

Program C-1.3B Conditions for Mitigation Waivers. This waiver is for wetlands that are less than 0.1 acre in size. The waiver is contrary to the state's wetland policy, which calls for no net loss of wetlands. It would exempt fill projects from mitigation if:

- 1) The wetland is isolated. This fails to consider that isolated wetlands can be near other wetlands forming a wetland complex and that even isolated wetlands have local value, i.e. to improve water quality, habitat, particularly during migration of movement between larger habitats.
- 2) Wetland experts demonstrate that preservation would not result in a functioning wetland. Often this means that the development would cut-off water supply, which could be avoided by project redesign. As noted above, "wetland experts" can be found to say almost anything.
- 3) The city finds the filling more desirable. This is an arbitrary condition that defies the intent of the policy.

- 4) The applicants have received all required permits. Regulatory agency permits are a necessary step for all wetland fill projects to go forward. It need not be said. However, some agencies, most notably BCDC, require that local permits be obtained first.

Program C-1.3C Revision of Mitigation and Waiver Requirements. Much of this program seems fine, however, bringing “other bay area jurisdictions” into the program opens the door for extensive conflict among policies of the many jurisdictions around the Bay. There is no reason to cast such a broad net. End the sentence at federal agencies.

Program C-1.4C Mitigation Banking. Marin Audubon opposes mitigation banks because they offer an easy out for filling wetlands and the service area is usually far too large.

Policy C-1.5 Wetland Setbacks

Our comment on this policy relates to the exception “if it can be demonstrated that the proposed setback protects the functions of the wetlands to the maximum extent feasible.” See comments above related to experts.

Policy C-1.12 Native or Sensitive Habitat

This policy should specifically call out protecting native trees. If the city wants to protect more tree species than natives, at least the non-native trees protected should be non-invasive. Species such as eucalyptus and acacia are particularly problematic because they increase fire danger in addition to providing minimal habitat.

Protecting native species should be included in policies and programs throughout this habitat section. Program C-1.16A, Program C-1.16A, Policy 1.17A Program C-1.16A a), e), f), and g) and Program C-1.16A are all places where the preference for native trees should be included.

Special Status Wildlife - Marin Northern Spotted Owls typically nest on the tops of tall trees. No one is building platforms for the owls.

Program C.1-13A The CA Natural Diversity Data Base digital maps. The CNDDDB is generally recognized as not being current. In the case of development that could potentially impact special status species, data from additional sources should be provided.

In addition to policies/programs favoring actions to maintain dark sky policy, a policy requiring bird-friendly glass, to avoid or reduce impacts to bird populations from collision with glass windows and doors, should be included. Bird collisions occur when birds cannot distinguish the glass, see the reflection of vegetation and, therefore, perceive that the reflection as habitat, and fly through the glass. There is special bird-friendly glass that can and should be used in developments that are in and near vegetated habitat.

Thank you for considering our input.

Sincerely,



Barbara Salzman, Co-chair
Conservation Committee



Phil Peterson, Co-chair
Conservation Committee