

## Correspondence for DRB meeting of Nov 4h

Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Tue 11/3/2020 4:42 PM

To: Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Cc: Lindsay Lara <Lindsay.Lara@cityofsanrafael.org>

Good Evening Board Members, please see email below regarding tomorrow's meeting


### **Alicia Giudice, AICP | City of San Rafael**

Principal Planner

1400 5<sup>th</sup> Avenue, 3<sup>rd</sup> floor

San Rafael, CA 94901

415-485-3092

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***As a result of the County Public Health Order to Shelter-in-Place, the City of San Rafael will be offering only essential services and City offices will be closed to general walk-in customer service until further notice. I appreciate your patience during this time.***

***For San Rafael City Services questions, updates, and resources visit <https://www.cityofsanrafael.org/coronavirus>.***

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**From:** Emese Wood <[REDACTED]>  
**Sent:** Tuesday, November 3, 2020 11:03 AM  
**To:** Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>  
**Subject:** Fwd: Design Review Board Changes

**From:** **Emese Wood** <[REDACTED]>  
**Date:** Mon, Nov 3, 2020 at 11:02AM  
**Subject:** Design Review Board Changes

I would like to express my opposition to the proposal to shift decisions regarding hillside review projects to a reduced DRAC from the former 5 member DRB, and the subsequent transfer of authority from the City Council to the Planning Commission. Our hillsides and ridgelines in Marin and San Rafael are truly one of our treasures, visually, ecologically, giving us a sense of place that is very special. This has been recognized and protected in the past and now is not the time to weaken a process that has been working well. We need to have public notice, review and input into these important decisions that once made cannot be undone. We need more accountability, not less. I SUPPORT retaining the full Design Review Board and OPPOSE it's reduction to a smaller DRAC when it comes to decisions about hillside development.

Thank you,  
Emese Wood,

11/4/2020

Mail - Lindsay Lara - Outlook

Gloria Drive  
San Rafael

## Correspondence for DRB meeting of November 4th

Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Tue 11/3/2020 4:38 PM

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**From:** Lance Kuykendall <[REDACTED]>  
**Sent:** Tuesday, November 3, 2020 11:40 AM  
**To:** Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>  
**Subject:** Re: Meeting Nov 4 file P20-704

Good morning, The FPOA is supportive of this planning initiative and would encourage any effort to make planning more efficient process. Prompt. access to decision making is one of those. While major policy decisions need and should be carefully considered, we are more concerned with the smaller ones particularly those that are the result of unintended consequences and misunderstandings. Several years ago the issue of a children's tree house took months to resolve ultimately affecting seven homes and recently an approved project was held up for eight weeks over an unforeseen consequence coupled with a new neighbor's misunderstanding. We realize that some are concerned that any sort decisions by unknown committees are akin to decisions made in smoke filled rooms, but if we can settle legal disputes through arbitration we ought to be able to find a way to resolve issues such as these. Maybe a revolving resolutions group a small number of who were always available to immediately address a problem.

Although the proposal to explore the creation of a DRAC does not address the issues of our immediate concern we would support it as a step in the right direction

On 10/28/20 12:33 PM, Alicia Giudice wrote:

Hi lance. Great question.

The DRB meeting of November 4 is focused on the changes to the structure of the DRB to add an design review advisory committee (DRAC) option for certain smaller projects. This is something the city Council discussed at the prior meeting but now we are asking the design review board to help us design what the DRAC would look like and what types of projects the DRAC would review.

I do have your comments but let me know if there is anything you would like to add regarding the DRAC.

Also I do want to give you a heads up that since were given the OK from the city Council to draft Ordinance amendments related to Process improvement and affordable housing changes we, are now in the middle of drafting those changes. You can expect to see some additional notices on this same topic in the coming weeks.

Thanks again!

On Oct 28, 2020, at 11:51 AM, Lance Kuykendall

[\[redacted\]](#) wrote:

Hello, This is Lance Kuykendall from Fairhills Property Owners Assoc. We received notice of above and I'm writing to ask if this is the same recommendation of changing procedures to speed the planning process and decrease the affordable requirement for which we previously expressed our support or is this something new.

Ph [redacted]

LK



# Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | [MARINAUDUBON.ORG](http://MARINAUDUBON.ORG)

October 27, 2020

San Rafael Planning Commission

[Barry.miller@cityofsanrafael.org](mailto:Barry.miller@cityofsanrafael.org)

c/o [alicia.giudice@cityofsanrafael.org](mailto:alicia.giudice@cityofsanrafael.org)

[lindsay.lara@cityofsanrafael.org](mailto: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  
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