

July 14<sup>th</sup>, 2021



Protecting Marin Since 1934

Mayor Kate Colin and  
San Rafael City Councilmembers  
1400 5<sup>th</sup> Avenue  
San Rafael, CA 94901  
Email: [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org)

Re: General Plan 2040, Baylands Corridor delineation, and Canalways

Dear Mayor and Councilmembers:

Marin Conservation League (MCL) appreciates the caliber of San Rafael's 2040 General Plan update and the leadership with which the public planning process continues to be conducted. In addition, MCL appreciates the opportunity we were afforded to represent both environmental and climate change interests on the 2040 Steering Committee as well as this opportunity to add further comment to the redlined goals, policies, and programs in the 2040 Draft. This letter focuses on one of the changes that was not included in the redlined version of the Draft, though there were requests during the Planning Commission's public hearings to include it.

MCL urges the City to include its own policy and programs that **establish a Baylands Corridor that overlays San Rafael's shoreline and that is consistent with the delineation and protections for the Marin County Baylands Corridor as outlined in the 2007 Marin Countywide Plan (CWP)**. Without this, the San Rafael General Plan 2040 falls short in two ways. 1) It lacks sufficient protection for baylands habitat within City boundaries. 2) It misses potential opportunities those protections would extend to the City's efforts to mitigate future flooding and related impacts due to sea level rise, especially for nature-based improvements.

As transitional zones between terrestrial and aquatic ecosystems, baylands incorporate a variety of habitats as well as provide ecological connections to uplands. Both baylands and adjacent uplands support the biodiversity of bay-dependent migratory and resident birds and mammals. These zones include both tidal areas as well as remnant undeveloped diked properties that would be tidal in the absence of levees, sea walls and other manmade structures that block tides.

The Marin County Baylands Corridor in the CWP encompasses shorelines that contain historic marshlands. The historic high and low tide elevations form the geographic and environmental basis for bayland boundaries shown on maps prepared by the San Francisco Estuary Institute and adopted in the CWP. A Baylands Corridor is different than delineations for a Wetland Overlay, as described

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Marin Conservation League was founded in 1934 to preserve, protect and enhance the natural assets of Marin County.

in GP 2040 Policy C-1.1. The wetland overlay relies on the presence or absence of wetland indicators to determine jurisdictional wetlands and waters that would be subject to Section 404 of the Clean Water Act. Alternatively, delineating a Baylands Corridor sharpens attention not only to unique environmental characteristics but also to opportunities to protect the marshes, tidelands, and diked lands that were once wetlands or part of the bays along with their adjacent undeveloped uplands. Establishing a Baylands Corridor should be considered for inclusion in two Elements of the 2040 Plan: (1) in the Conservation and Climate Change Element, added to Policy C-1.1 Wetlands Preservation or C-1.2 Wetlands and Sea Level Rise, and (2) under Flooding and Sea Level Rise and the S-3 section of the Safety and Resilience Element.

While the evolution of the Bay Area's baylands is closely related to the changes in sea level over thousands of years, it is mainly the diking and filling of wetlands over the past 150+ years that resulted in the loss and degradation of nearly 90% of San Francisco Bay's tidal wetlands. With the added threat of sea level rise, development in remaining areas is entirely inappropriate not only from a wetland protection and ecological point of view, but also in terms of flood risk and human safety.

The historic marshlands of San Rafael that lie within the CWP's Baylands Corridor lie within GP 2040's Flood Hazard Areas map (Figure 8-2) and Sea Level Rise Prediction Map (Figure 8-3). They also lie within CWP's "very high level of liquefaction susceptibility" zone (Map 2-11) and subsist of soils, which include water-saturated mud and artificial fill, that are subject to the highest level of amplification of seismic shaking (Map 2-9). Communities and property owners will likely assume greater responsibility for the true costs of locating development in areas of increasing sea levels, storm surge and subsequent flooding over time. Bayland communities need to begin adaptation now to manage risk and create greater social and ecological resilience.

Two comprehensive documents, San Rafael's 2014 "Climate Adaptation – Sea Level Rise" white paper and Marin County's 2017 "Bay Waterfront Adaptation and Vulnerability Evaluation" (BayWAVE) report, together make the case for protection by documenting the human and asset vulnerabilities along the shorelines and the associated dollar costs of ignoring rising waters. The bottom line of both reports is that action needs to get underway to protect the environment, infrastructure, and residents.

One large remnant of undeveloped, diked property along San Rafael's shoreline is a key marsh amid a string of shoreline ponds, Canalways. It is important for wildlife. At three feet below sea level, the property has varied habitats including fresh and brackish water, mudflats, pickleweed, shallow ponding, and upland grass and shrub areas. It is a feeding area not only for migrant birds but also for herons and egrets which nest on nearby West Marin Island, part of Marin Islands National Wildlife Refuge.

As stated in the Neighborhoods Element under Canalways, “Environmental advocacy groups have endeavored to conserve the property and acquire it as open space for five decades.” The City has also sought preservation of this unique site, signing an agreement in 1990 with the State Coastal Conservancy to receive a grant for \$500,000 to acquire the property “for purposes of habitat preservation and enhancement, and public access”, with an additional \$40,000 to complete an enhancement plan.

San Rafael’s 2014 white paper states that the levee constructed along the shoreline path of Canalways is likely not adequate to accommodate projected sea level rise and suggests that this site is an opportunity for possible retreat and conversion to tidal marsh. The current 2040 Plan Policy C-1.1 Wetlands Preservation has only two specific marsh restoration projects listed under Programs. Our hope is that the City will be amending the 2040 Plan sometime in the future to include a Canalways Marsh restoration program.

Fourteen years ago, MCL along with Marin Audubon, Marin Baylands Advocates and Marin Sierra Club, urged the County to adopt a Baylands Corridor as part of their updated 2007 Countywide Plan. MCL now encourages San Rafael to do the same.

Specifically, we request that San Rafael include in its 2040 Plan a policy and/or programs that establish and integrate a Baylands Corridor that overlays San Rafael’s shoreline and is consistent with the delineation and protections for the Marin County Baylands Corridor as outlined in the CWP. This is a necessary step forward in a regional and coordinated approach to adaptation planning that will foster protection of San Rafael’s bayland resources for wildlife and offer potential sea level rise adaptation opportunities to surrounding communities.

Thank you for your consideration of this request.

Sincerely,



Robert Miller  
President  
SR GP 2040 Steering Committee member



Kate Powers  
Land Use, Transportation and Water  
SR GP 2040 Steering Committee member

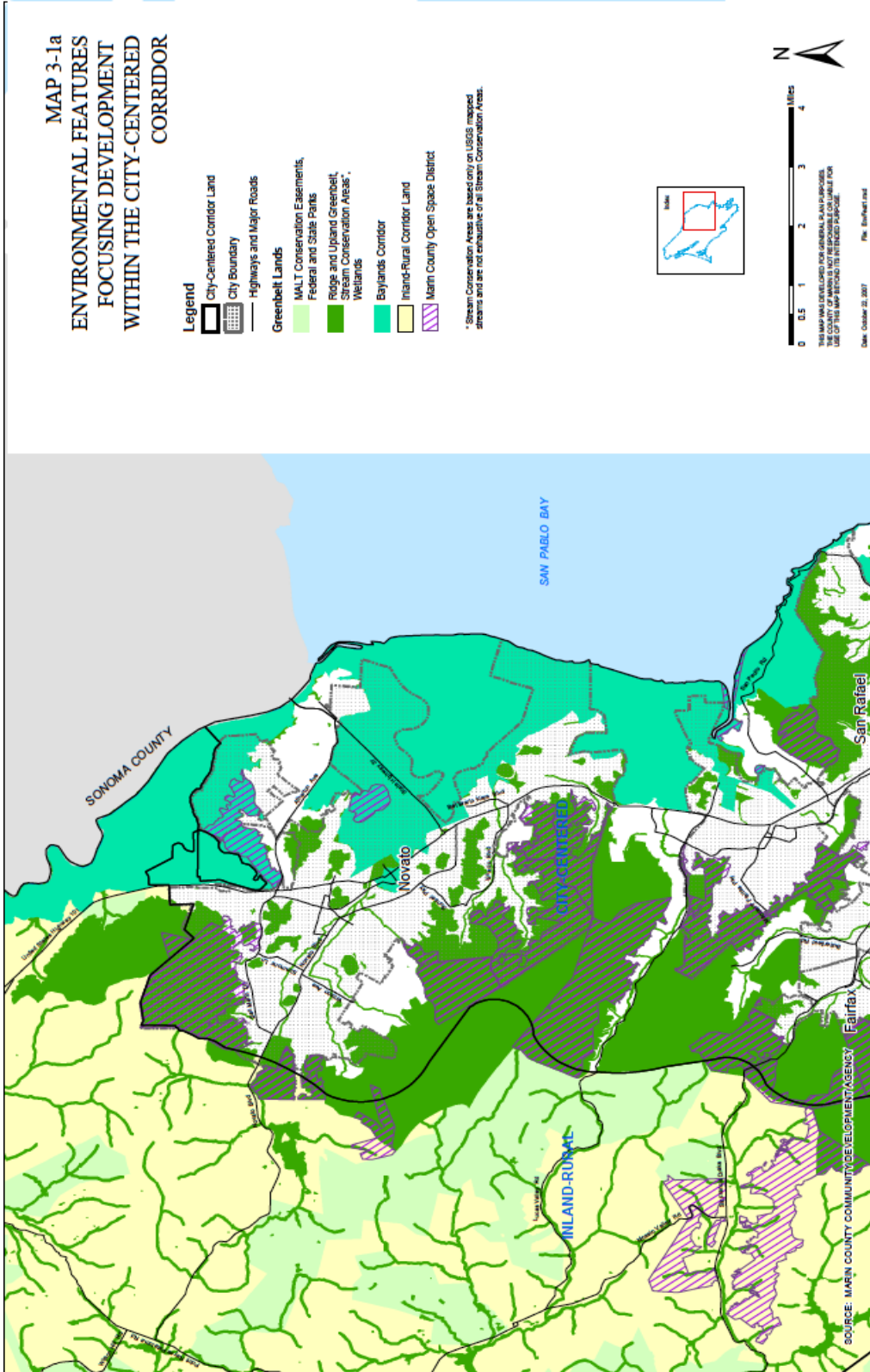
cc Barry Miller

Attachments:

Maps 3-1a and 3-1b from the 2007 Marin Countywide Plan, “Environmental Features Focusing Development within the City-centered Corridor”. They include delineation of the CWP Baylands Corridor.

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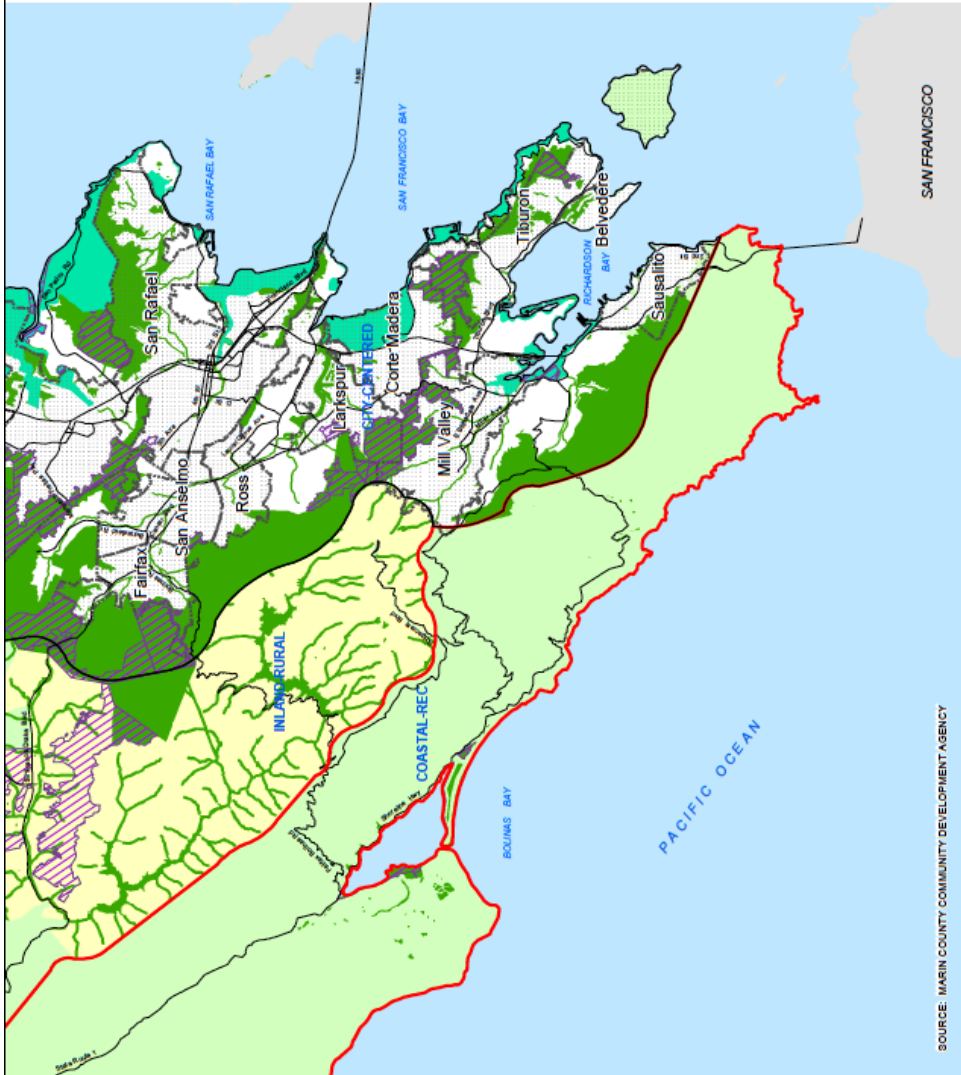
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**MAP 3-1b  
ENVIRONMENTAL FEATURES  
FOCUSING DEVELOPMENT  
WITHIN THE CITY-CENTERED  
CORRIDOR**

- Legend**
- City-Centered Corridor Land
  - City Boundary
  - Highways and Major Roads
  - Greenbelt Lands**
    - MALT Conservation Easements, Federal and State Parks
    - Ridge and Upward Greenbelt, Stream Conservation Areas
    - Wetlands
    - Baylands Corridor
    - Inland-Rural Corridor Land
    - Coastal-Recreation Corridor Land
    - Marin County Open Space District
- \* Stream Conservation Areas are based only on USGS mapped streams and are not exhaustive of all Stream Conservation Areas.



DATE: OCTOBER 22, 2017  
FILE: ENHANCED.mxd  
SOURCE: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY  
THE COUNTY OF MARIN CANNOT BE HELD RESPONSIBLE FOR ANY USE OF THIS MAP BEYOND ITS INTENDED PURPOSE.



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# Marin Audubon Society

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July 14, 2021

Kate Colin, Mayor  
San Rafael City Council Members  
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San Rafael, CA 94901

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[City.Clerk@cityofsanrafael.org](mailto:City.Clerk@cityofsanrafael.org)

RE: Comments on San Rafael General Plan 2040

Dear Mayor Colin and Council Members:

The Marin Audubon Society (MAS) appreciates the opportunity to comment on the San Rafael General Plan 2040. Our review has focused on the adequacy of the Plan to protect natural resources, wetlands and uplands, for the benefits they provide for wildlife and for people. In particular, we commend the changes made to better protect native tree resources and wetlands. We do, however, have some ongoing issues, concerns and recommendations about policies and programs to protect these resources.

## **Protecting Wetlands**

First, we are very pleased about the Plan's support for (Program C-1.1C) the Tiscornia Marsh Restoration Project. As stated, this multi-benefit project will raise and improve a degraded levee, restore eroding tidal marsh, reducing the Canal community's vulnerability to sea level rise and flooding. The project's additional benefits include habitat for endangered and many other species, a model for similar projects demonstrating nature-based adaptation measures including coarse beach and using dredged sediments to restore tidal marsh in the Bay while also engaging members of the adjacent multi-cultural community. The partnership between MAS and the City is made possible by grants so far from the San Francisco Bay Restoration Authority (Measure AA) and the Marin Community Foundation to the Marin Audubon Society.

We are concerned about the adequacy of the *Wetlands Overlay District*. An Overlay District usually defines special provisions of an area, in this case wetlands, and is particularly useful identifying the resource in advance. There is no description of the Overlay District nor is there a boundary shown. How it works to benefit the city and/or to protect resources is unclear. Program C-1.1A says it is "based on wetland delineations consistent with the Corps of Engineers criteria" (Program C 1.1B). According to the SR zoning code, properties included in this District are those that have had wetland delineation, so sites that have not had delineations are not included. Delineations are usually performed as required by state and federal regulatory agencies for a project as part of environmental review. So while this Overlay District is valuable, verifying the current extent of wetlands on known

areas or suspected wetlands, it is not comprehensive and, therefore, does not alert to wetlands in advance.

We suggest a more useful and protective approach, establishing a Baylands Corridor, as suggested in our March letter to the Commission. A Baylands Corridor is a more protective, comprehensive and clear designation, as it would be based on the San Francisco Estuary Institute's Historic Bayland Maps. It would have specific boundaries that are easy to identify in advance. The Corridor would include undeveloped lands that are, or once were, subject to tidal action, i.e. non-tidal marsh, diked baylands, and adjacent uplands within the historic bay boundary. These historic baylands are referenced and shown in the SR GP 2020 (Exhibit 36). The Baylands Corridor has been adopted by Marin County in the current Countywide Plan.

A benefit is that the Corridor would alert the community and potential developers to the possible presence of wetland resources as well the presence of other factors related to their historic bayland status. Historic baylands may not currently meet the definition of wetlands but they retain wetland soils and are subject to subsidence and differential settlement because they are bay mud. Developments on baylands have safety risks that are expensive to address, if that is even possible. One need only look to the problems in the Delta, at Santa Venetia and Corte Madera and the ongoing flooding in San Rafael to see the consequences of developing on marshes. Protecting historic baylands is particularly important now, with sea level rise upon us. Undeveloped baylands protect communities from flooding, by ponding floodwater and buffering the Bay. At this time when the Bay area is looking to protect people from the impacts of sea level rise, San Rafael should not be looking at putting more people in harm's way. Diked historic baylands also are the last opportunity to restore tidal marshes that slow the flow of tidal waters thereby reducing their impact on and protecting the shorelines. San Rafael's baylands also ensure connectivity between the few remaining baylands from Gallinas Creek to Corte Madera marshes.

We appreciate the Plan's recognizing the Baylands Corridor by supporting the County's implementing of the Baylands Corridor policies and standards on unincorporated areas within the planning area (Program C 1.1B). The City should now do the same for lands within its planning area.

**Canalways:** One site that should be in the Corridor is the 85-acre Canalways site. Most of the site is three feet or more below sea level with an inadequate levee putting the Canal Community and all of San Rafael at risk of flooding from sea level rises. Whether or not the entire site is jurisdictional wetlands makes little difference. It is all unstable bay mud, once open bay that has never been filled, would be annually flooded if it were not pumped and is an important habitat. The city should not be endorsing in advance a commitment to any kind of development on such a sensitive area as in Policy NH 3.24 and Program 3.24A: "The city supports a plan for this site that balances conservation and development objectives" and "defining the developable area and permitting additional uses." The time for balance is long past. The City has developed tidal marsh that once extended back to Fourth Street. We did not know about sea level rise when the other baylands were developed. Now we know better. Wetland delineation may be important information, but should not alone "shape" the development plan or enable developers to gain more developable land. The current high upland portions of the property adjacent to Kerner Blvd have been filled for some time, and are less subject to settlement. They appear to be the only portions of the site that may be developable, but unfilled baylands are not. The Canalways property would be ideal for a multi-benefit marsh restoration sea level rise adaptation project similar to the Tiscornia project.



**Other Wetlands** We appreciate the changes made that strengthen wetland protection including: in Policy C-1.3 by deleting, “unless it is not possible or practical” to protect wetlands. And in Program C-1.1 Wetlands Preservation, the revised policy would require a jurisdictional delineation on sites with suspected “suitable habitat.” A Baylands Corridor would assist in identifying wetlands in advance.

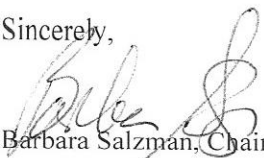
Other of our recommendations to strengthen additional policies were not taken: And Program C-1.3B *Conditions for Mitigation Waivers* provides conditions for a waiver for projects filling small wetlands with various qualifications, the most troublesome of which is “if the city determines that the filling would result in a more desirable development project.” Allowing wetlands to be filled because the city likes the project better than the wetlands is precisely why the world has lost so many wetlands and is not in the public interest. Even small wetlands are important for water sources for wildlife and to pond rainwater and runoff reducing flood risk. Policy C-1.5 *Wetland Setbacks*. Provides for a setback of 50-feet with the possibility of more being required on 2-acre or larger sites. Again, a waiver is provided for “minor” reductions in setbacks if it can be demonstrated that encroachments would not impact the functions of the wetlands. Importantly, it is now widely recognized that setbacks, also known as ecotone or transition zones, are an essential part of wetland habitats. One example is for cover habitat for the endangered Ridgway Rails, which must leave marshes at very high tides and hide from avian predators. It is vital that they not be compromised.

### **Plant and Animal Life**

The changes to the Wildlife Corridor and Native or Sensitive Habitats and Special Status Species are commendable – with the exception that the 1-1 ratio mitigation for the removal of native oaks (Program C-1.12C) is inadequate, particularly as the oaks that would be removed are large trees. We recommend a mitigation replacement ratio of a minimum 3:1 mitigation but even that is not adequate to replace the values provided by mature native oaks. We strongly support new Tree Management Policy C 1-17 and programs, and revised Municipal Code. These strongly support the protection of native trees which will better protect and hopefully restore some native trees and woodlands in San Rafael. Native tree species other than oaks should also have mitigation requirements if the mature trees are to be removed. The goal should be to retain native trees and allow removal only when there is a clear public benefit and at which time require mitigation. Redwood trees are particularly important to protect (Program C-1.7A) because of their importance as habitat for Northern Spotted Owl, a state and federally fully protected species.

Thank you for considering our comments and for the policies that will protect San Rafael’s environment to the benefit of San Rafael’s residents, and the environment of the entire Bay Area.

Sincerely,



Barbara Salzman, Chair  
Conservation Committee