



**Planning Commission  
Regular Meeting**

**Tuesday, October 26, 2021, 7:00 P.M.  
AGENDA**

**Virtual Meeting**

**Watch on Webinar: <https://tinyurl.com/pc-2021-10-26>  
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>  
Telephone: (669) 900-9128  
Meeting ID: 897-5534-1830#**

**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 held virtually using Zoom.

How to participate in the meeting:

- Submit public comments in writing. Correspondence received by 5:00 p.m. the Wednesday before this public hearing will be provided with the agenda materials provided to the Commission. Correspondence received after this deadline but by 5:00 p.m. the day of the hearing will be conveyed to the Commission as a supplement. Send correspondence to the project planner and [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email [city.clerk@cityofsanrafael.org](mailto:city.clerk@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**

**RECORDING OF MEMBERS PRESENT AND ABSENT**

**APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS**

**PUBLIC NOTIFICATION OF MEETING PROCEDURES**

## **ORAL COMMUNICATIONS FROM THE PUBLIC**

Remarks are limited to three minutes per person and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first, remarks on agenda items will be heard at the time the item is discussed.

## **CONSENT CALENDAR**

*The Consent Calendar allows the Board to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no Board members who wish to discuss.*

### **1. Approval of the Planning Commission Meeting Minutes of October 12, 2021**

*Recommended Action – Approve minutes as submitted*

## **ACTION ITEM**

### **2. Tiscornia Marsh Restoration Project, North of Canal Street** – Public hearing for the Draft Environmental Impact Report (DEIR) prepared to assess the environmental impacts of the Tiscornia Marsh Restoration Project. The Tiscornia Marsh Restoration Project proposes to restore the tidal marsh/mudflats located north and outboard of Canal Street, as well as the City-owned diked marsh located north of the Albert J. Boro Center/Pickleweed Park Playfields. APNs: 009-142-01, 009-032-08 and -09; Park/Open Space- Wetland Overlay (P/OS-WO) District. Applicant: Marin Audubon Society; Property Owners: Marin Audubon Society and City of San Rafael.

Project Planners:

Leslie Mendez [Leslie.Mendez@cityofsanrafael.org](mailto:Leslie.Mendez@cityofsanrafael.org)

April Miller [April.Miller@cityofsanrafael.org](mailto:April.Miller@cityofsanrafael.org)

*Recommended Action – Take public testimony on the Draft Subsequent EIR for the project and provide comments to staff on the Draft EIR*

## **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 [city.clerk@cityofsanrafael.org](mailto:city.clerk@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**

**Tuesday, October 12, 2021, 7:00 P.M.  
MINUTES**

**Virtual Meeting**

**Watch on Webinar: <https://tinyurl.com/PC-2021-10-12>  
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>  
Telephone: (669) 900-9128  
Meeting ID: 872-0645-4435#**

**CORONAVIRUS (COVID-19) ADVISORY NOTICE**

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How to participate in the meeting:

- Submit public comments in writing before 4:00 p.m. the day of the meeting to [Leslie.Mendez@cityofsanrafael.org](mailto:Leslie.Mendez@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
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Present: Chair Samudzi  
Commissioner Haveman  
Commissioner Lubamersky  
Commissioner Mercado  
Vice Chair Previtali  
Commissioner Saude

Absent: Commissioner Harris

Also Present: Leslie Mendez, Planning Manager  
Steve Stafford, Senior Planner

## **CALL TO ORDER**

Chair Samudzi called the meeting to order at 7:00 p.m. He then invited Planning Manager Leslie Mendez to call the roll. All commissioners were present, except Commissioner Harris.

## **APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS**

None

## **PUBLIC NOTIFICATION OF MEETING PROCEDURES**

Chair Samudzi invited Planning Manager Leslie Mendez 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 Zoom. She explained the process for community participation on the telephone and Zoom.

## **ORAL COMMUNICATIONS FROM THE PUBLIC**

None

## **CONSENT CALENDAR**

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

Commissioner Lubamersky moved and Commissioner Haveman seconded to approve the Minutes.

### **1. Approval of the Planning Commission Meeting Minutes of September 28, 2021** *Approved minutes as submitted*

AYES: Commissioners: Haveman, Lubamersky, Mercado, Previtali, Saude & Chair Samudzi

NOES: Commissioners: None

ABSENT: Commissioners: Harris

ABSTAIN: Commissioners: None

Motion carried 6-0

## **ACTION ITEM**

- 2. 800 Mission Ave. ("Aegis Living San Rafael") –**  
Resolution of the City of San Rafael Planning Commission Amending Use Permit (UP21-006) and an Environmental and Design Review Permit (ED21-022) Approvals to Allow an 11' 2" Increase in Height, from 36' to 47' 2", and Increase in Rooms, from 77 to 103 rooms, and an Increase in Beds, from 88 to 105 beds for a Previously Approved Senior Living Facility with Memory Care Services, with 40 Garage Parking Spaces and Site Improvements on Two Vacant Downtown Lots Located at 800 Mission Ave. (APNS: 011-184-08 & -09)

Steve Stafford, Senior Planner presented the Staff Report.

Staff responded to questions from the Commissioners.

Applicant Team gave a presentation.

Applicant Team responded to questions from the Commissioners.

Chair Samudzi invited public comment.

**Speakers:** Nina Lilienthal-Murphy, Lincoln San Rafael Hill Neighborhood Association, Kay Karchevski, Anna de Benedictis

Commissioners provided comments.

Staff and Applicant Team responded to comments and further questions from the Commissioners.

Commissioner Mercado moved and Commissioner Saude seconded to adopt the resolution.

AYES: Commissioners: Haveman, Lubamersky, Mercado, Saude & Chair Samudzi

NOES: Commissioners: Previtalli

ABSENT: Commissioners: Harris

ABSTAIN: Commissioners: None

Motion carried 5-0

*Resolution 21-08 - Resolution of the City of San Rafael Planning Commission Amending Use Permit (UP21-006) and an Environmental and Design Review Permit (ED21-022) Approvals to Allow an 11' 2" Increase in Height, from 36' to 47' 2", and Increase in Rooms, from 77 to 103 rooms, and an Increase in Beds, from 88 to 105 beds for a Previously Approved Senior Living Facility with Memory Care Services, with 40 Garage Parking Spaces and Site Improvements on Two Vacant Downtown Lots Located at 800 Mission Ave. (APNS: 011-184-08 & -09)*

## **DIRECTOR'S REPORT**

Planning Manager reported on the following items:

- City Council accepted comments on the San Rafael Transit Center Draft Environmental Impact Report (DEIR).
- Caltrans closure of the San Rafael off-ramp as part of the Grand Avenue bridge project from Friday, October 22 at 10 p.m. through Monday, October 25 at 5 a.m.
- Housing Element Community Meeting is expected to be held on Wednesday, October 27. Notices to go out soon.
- City recently hired Jacob Noonan, Housing Program Manager and Alexis Captanian, Housing Program Analyst

## **COMMISSION COMMUNICATION**

- Commissioner Saude commented on the tough meeting tonight, but was glad that they could carry a good debate.
- Vice Chair Previtalli announced the Othering and Belonging Institute at UC Berkeley to hold a remote conference on Monday, October 18 and Tuesday, October 19.
- SB 9 discussion
- Commissioner Mercado backed up Commissioner Saude's comment regarding the meeting tonight.
- Vice Chair Previtalli commented on the New York Times article, Where the Suburbs End.

**ADJOURNMENT**

Chair Samudzi adjourned the meeting at 9:13 p.m.

\_\_\_\_\_  
LINDSAY LARA, City Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

\_\_\_\_\_  
SHINGAI SAMUDZI, Chair

DRAFT



**SAN RAFAEL**  
THE CITY WITH A MISSION

Community Development Department – Planning Division

**Meeting Date:** October 26, 2021  
**Agenda Item:** 2  
**Case Numbers:** UP21-001, ED21-002, & IS21-001  
**Project Planner:** Leslie Mendez, Planning Manager & April Miller, Assistant Public Works Director

## REPORT TO PLANNING COMMISSION

**SUBJECT: Tiscornia Marsh Restoration Project, North of Canal Street** – Public hearing for the Draft Environmental Impact Report (DEIR) prepared to assess the environmental impacts of the Tiscornia Marsh Restoration Project. The Tiscornia Marsh Restoration Project proposes to restore the tidal marsh/mudflats located north and outboard of Canal Street, as well as the City-owned diked marsh located north of the Albert J. Boro Center/Pickleweed Park Playfields. APNs: 009-142-01, 009-032-08 and -09; Park/Open Space- Wetland Overlay (P/OS-WO) District. Applicant: Marin Audubon Society; Property Owners: Marin Audubon Society and City of San Rafael.

### EXECUTIVE SUMMARY

Marin Audubon Society (MAS), project applicant, has filed Use Permit and Environmental and Design Review Permit applications to pursue a restoration of the Tiscornia Marsh and adjacent City-owned diked marsh located north of Canal Street. In late 2020, these planning applications and restoration plans were reviewed by City staff, and it was determined that the project has the potential to result in significant, physical environmental effects. The preparation of an Environmental Impact Report (EIR) was recommended. Consistent with the California Environmental Quality Act (CEQA) Guidelines, the City issued a Notice of Preparation (NOP) announcing that an EIR would be prepared to assess the impacts of the project. The NOP included a 30-day public review for pertinent agencies, interested organizations, and the public to comment on the scope of issues to be studied in the EIR. On February 23, 2021, the Planning Commission conducted a public “scoping hearing” to allow for public comment. The Commission confirmed the scope of issues for study and directed that staff proceed with the preparation of an EIR.

A Draft Environmental Impact Report (DEIR) has been completed and was released for public review on September 10, 2021. Per the CEQA Guidelines, a minimum 45-day public review period has been observed for the submittal of comments on the DEIR (review period closing on October 26, 2021). During this public review period, the Planning Commission is required to conduct a public hearing on the DEIR. Comments on the DEIR that have been received as of the release date of this staff report (Thursday, October 21, 2021) are attached (Exhibit 2).

The DEIR has been prepared in accordance with the CEQA Guidelines, which finds that the project would not result in any significant, unavoidable impacts that cannot be mitigated. The DEIR finds that all potentially significant impacts can be mitigated to a less-than-significant level through implementation of recommended mitigation measures. The DEIR is adequate and thorough. Therefore, it is recommended that the City proceed with preparation of a Final EIR (FEIR), which will include a response to all comments submitted on the DEIR.



## RECOMMENDATION

It is recommended that the Planning Commission take the following actions:

1. Accept public testimony and comments on the DEIR.
2. Direct staff to prepare a Final Environmental Impact Report/Response to Comments (FEIR).

## BACKGROUND

### Site Description & Setting:

The Tiscornia Marsh site covers 21 acres of tidal marsh and bay lands and well as 2,000 feet of shoreline levee/trail located north of East Canal Street. The property, which is owned by MAS is bound to the: a) south by a shoreline levee, Schoen Park (small City-owned park/playground) and Canal Street; b) west by the Albert J Boro Community Center and Pickleweed Park; c) east by the San Rafael Bay; and d) north by the San Rafael Creek. The neighboring Albert J Boro Community Center and Pickleweed Park covers approximately 15 acres which includes an active community center, community park, and an expansive playfield. Included in the City-owned holdings is an undeveloped, four-acre diked salt marsh, which is located north of the large playfield. Although subject to flooding in the winter months, this diked salt marsh is enclosed by a perimeter levee and contains a well-used, informal pedestrian trail, which loops through the area.

Figure 1: Tiscornia Marsh Restoration Project Location



The Tiscornia Marsh has experienced considerable erosion along its bayward edge, which is attributed to direct wave action from the bay. Over the last 30 years, approximately three acres of the tidal marsh has

been lost to this erosion, which has dramatically impacted habitat for species such as the California Ridgway's Rail and Salt Marsh Harvest Mouse. Under current conditions, it is expected that this erosion will continue and will likely increase as sea level rises. The second critical issue for this general area is flooding. The adjacent Canal neighborhood is low-lying and is currently at risk to coastal flooding (as well as sea level rise).

**History:**

In June 2016, the voters of the nine Bay Area counties approved Measure AA, a parcel tax measure. The tax measure is a \$12.00 per year tax on every parcel in the Bay Area. The purpose of Measure AA is to generate \$500 million over a 20-year period for critical tidal marsh restoration projects around the San Francisco Bay. The goal is to improve water quality, restore habitat for wildlife, protect communities from flooding and increase shoreline public access.

Applications for Measure AA funds for local restoration projects are initiated annually by the San Francisco Bay Restoration Authority. In fall 2018, a second call for applications was released and MAS applied for funding. As required by the application process MAS was required to submit an endorsement of the application by the local jurisdiction (City). On October 1, 2018, the City Council reviewed this request and adopted Resolution No. 14592 authorizing the application endorsement. As part of this review, the City Council acknowledged its role as the lead agency on this project for permitting and environmental review.

## **PROJECT DESCRIPTION**

Marin Audubon Society is pursuing the restoration of the Tiscornia Marsh, which would include the contiguous City-owned dike marsh. The project objectives are as follows:

- Restore the project area to improve ecological function and habitat quantity, quality, and connectivity for native marsh species and marsh upland transition species, including special-status species.
- Protect the project site marshlands from future marsh edge erosion.
- Increase the level of flood protection for the Canal neighborhood and other nearby communities of Central San Rafael.
- Create sustainable benefits that consider future environmental changes such as sea level rise and sedimentation.
- Maintain and improve public access to passive recreation and outdoor education opportunities (e.g., hiking, jogging and bird watching).

Tiscornia Marsh would be restored to its former extent by beneficially reusing dredged material from local sources. A coarse beach would be constructed along the bay ward edge of the restored marsh to resist future erosion. Tidal action would also be restored to the City-owned diked marsh at the north end of Pickleweed Park. Altogether, the project would reconstruct approximately four acres of eroded tidal marsh, preserve and protect the approximately eight remaining acres of Tiscornia Marsh, and restore approximately five acres of diked marsh (City-owned area north of the Pickleweed Park playfields) by reconnecting it to tidal inundation. The project also proposes to construct a new 600-foot setback levee and improve approximately 1,100 feet of shoreline levee to achieve greater flood protection, public access, and habitat benefits. In sum, the major project elements include the:

- Introduction of a coarse, rocky beach;
- Reconstruction of the eroded tidal marsh;
- Restoring the diked marsh to the bay;

- Shoreline levee improvements; and
- Development of an ecotone slope.

**Figure 2: Restoration Plan**



Since the initial development of the restoration plan, minor revisions to the plan have been made to align with several City-sponsored projects within the park and community center area. Among these projects is a storm drain outfall and trash capture program, which, if implemented, would necessitate some adjustments that would transition to and join with to tie-off the elevated western levee in the restoration plan.

Use Permit and Environmental and Design Review Permit applications have been filed for this project. The grading and restoration of wetlands (including filling and cutting/dredging) requires a Use Permit per SRMC Sections 14.13.030 and 14.13.050 (Wetland Overlay District). Grading as a primary use (not linked to the construction of a building) requires an Environmental and Design Permit per SRMC Section 14.25.040A.3.b, as it is considered a major site improvement (involves in excess of 1,000 cubic yards of fill and 2,000 cubic yards of cut). Construction-related City permits required for this project include a Grading Permit and a Tideland Permit. Permits and clearances are required by other regulatory agencies including, but not limited to the US Army Corps of Engineers, Bay Conservation and Development Commission (BCDC), California Department of Fish & Wildlife (CDFW), and the California Regional Water Quality Control Board (RWQCB)

## **ENVIRONMENTAL ANALYSIS AND REVIEW**

### **Notice of Preparation – EIR Required:**

Pursuant to the requirements of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review. In early 2021, it was determined that the project has the potential to result in significant impacts on the environment, and that an Environmental Impact Report (EIR) should be prepared to assess these potential impacts. Consistent with CEQA Guidelines Section 15082, a Notice of Preparation (NOP) was released in January 2021 for a 30-day public review to: a) announce the commencement of the EIR preparation process; and b) solicit comments from responsible and trustee agencies, utility providers, organizations, and the public concerning the scope of issues to be studied in the EIR. Per the City's Environmental Review Procedures, the Planning Commission conducted a public "scoping" hearing on February 23, 2021. The Planning Commission accepted public comments, provided comments on the scope of issues, and directed staff to proceed with the preparation of a Draft Environmental Impact Report (DEIR).

As part of the NOP process, based on the preliminary review of project application materials, including the project description and plans, the following environmental impact topic areas were determined to clearly not apply to this project and would not warrant further discussion or study in the EIR:

- *Agriculture and Forestry Resources*
- *Energy*
- *Mineral Resources*
- *Population/Housing*

This determination was made as there are no agricultural activities/uses, forestry resources, or existing housing on the project site. Further, the proposed use and its construction would not: a) result in wasteful, inefficient, or unnecessary consumption of energy resources; b) conflict with plans for renewable energy.

### **Tribal Consultation – AB 52**

Consistent with the requirements and protocols of State Resources Code Section 21080.3.1 (AB 52) and CEQA Guidelines Section 15064.5, the City, as a lead agency must offer an opportunity for early consultation with the local Native American tribe. In February 2021, the City initiated the tribal consultation process through a request with the Federated Indians of Graton Rancheria (FIGR).

City staff met with representatives of the FIGR in spring 2021, which included an exchange of the cultural resources assessment prepared for the project area provide by ESA, Inc. In this meeting, there was a discussion of the resources assessment as well as recommended grading and construction protocols and requirements. These grading and construction protocols and requirements have been included in the cultural resource section of the DEIR (discussed below).

### **Draft Environmental Impact Report (DEIR) Completed:**

As directed by the Planning Commission, a DEIR has been completed. A Notice of Completion was released and filed with the State Clearinghouse on September 10, 2021. In tandem with this filing, the City sent (via US Mail and noticed publication in the Marin Independent Journal) a Notice of Availability/Notice of Public Hearing to: a) the regulatory agencies with project oversight; b) local interest groups and organizations as well as homeowner/neighborhood associations; and c) property owners and residents within 400 feet of the project area. A minimum 45-day public review period has been observed for the submittal of comments on the DEIR. The public comment period closes on the date of the Planning Commission hearing on the DEIR (October 26, 2021). The DEIR can be accessed on the [Tiscornia Marsh webpage](#).

The primary purpose of the DEIR is to provide full disclosure and information regarding a project's potential physical impacts on the environment in advance of deciding on a project, and to require feasible mitigation to reduce or eliminate impacts that have been identified. The DEIR identifies the following three environmental impact finding categories and the conclusions/determinations reached for the Tiscornia Marsh Restoration Project:

**Significant, Unavoidable Adverse Impact Determination**

Of the topic areas that were assessed and studied, the DEIR has concluded that the restoration project will result in no unavoidable adverse environmental impacts that cannot be mitigated.

**No Impact & Less-than-Significant Impact Determination**

The DEIR concluded that the restoration project would result in either no impacts or less-than-significant impact in the following topic areas:

- *Aesthetics*
- *Biological Resources (wetlands and riparian habitat impacts)*
- *Greenhouse Gas Emissions*
- *Hydrology/Water Quality*
- *Agriculture/Forest Resources*
- *Energy*
- *Geology and Soils*
- *Hazardous Materials*
- *Land Use and Planning*
- *Mineral Resources*
- *Noise*
- *Population and Housing*
- *Public Services*
- *Recreation*
- *Transportation and Traffic*
- *Utilities and Service Systems*
- *Wildfire*

**Less-than-Significant Impact with Incorporation of Mitigation Measures Determination**

The DEIR has concluded that the restoration project would result in potentially significant impacts but recommends mitigation measures that would reduce these impacts to a less-than-significant level. A summary of the DEIR topic areas where this finding has been reached, as well as the mitigation measures that are recommended is provided as follows:

- *Air Quality* - The DEIR has assessed air quality impacts associated with project. While the project would not result in permanent air quality impacts, project construction would result in temporary pollutants, exposing sensitive receptors (e.g., nearby residential uses) to substantial pollutant concentrations. To reduce this significant, temporary, construction-related impact to a less-than-significant level, the DEIR recommends two mitigation measures. Mitigation Measure 3.3-1 would require that the project proponent/construction contractor comply with and implement the Bay Area Air Quality Management District (BAAQMD) basic construction standards, which would involve, among others: a) covering trucks hauling soil material; b) watering soil exposed surfaced twice daily during construction; and c) limiting idle times on construction equipment and hauling vehicles. Second, Mitigation Measures 3.3-2 would require that the project proponent/construction contractor be required to use off-road diesel

construction equipment that is in compliance with the EPA Tier 4 Non-road Engine Standards.

- ***Biological Resources*** – The DEIR has assessed biological impacts associated with the project. As part of this assessment, the site was analyzed for special-status species as the area provides potential habitat for, among others, the California Black Rail, the California Ridgeway's Rail, and the Salt Marsh Harvest Mouse. The DEIR concludes that when completed, the restoration project would have beneficial impacts to biological resources by improving habitat. However, project construction (particularly earth movement/grading and pile driving) has the potential to significantly impact biological resources. The following mitigation measures are recommended to reduce the construction-related impacts to a less-than-significant level:
- To ensure that field management and construction personnel are made aware of the biological resources and the protocols needed to protect these resources, pre-construction training for all personnel is recommended. Mitigation Measure BIO 3.4-1 calls for the development and implementation of a Worker Environmental Awareness Training (WEAT) to be conducted by a qualified biologist.
  - To avoid and minimize impacts on the California Black Rail and the California Ridgeway's Rail, Mitigation Measure BIO 3.4-2 recommends that construction and vegetation management necessitating the use of heavy equipment that would occur adjacent to the tidal marsh shall be avoided during the breeding season from February 1 through August 31. If work cannot be avoided during the breeding season, protocol-level surveys (consistent with US Fish & Wildlife Service protocols) are to be conducted during periods of peak detectability (January 15 through March 25). This measure also includes specific measures such as construction setbacks if the species is determined to be present in the project area.
  - To minimize impacts to nesting birds, Mitigation Measure BIO 3.4-3 recommends that the removal of trees and scrub vegetation occur outside the bird nesting season (February 1 through August 31). This measure requires precautions similar to the protocols required by Mitigation Measure BIO 3.4-2 if vegetation removal occurs during the nesting season.
  - Potential habitat for the Salt Marsh Harvest Mouse, a special-status species, occurs in areas of pickleweed cover as well as salt marsh vegetation. Mitigation Measure BIO 3.4-4 recommends avoiding the habitat area to the extent feasible, that the habitat area be fenced, and that construction staging, and hauling be sited a minimum of 50 feet from the habitat area.
  - Mitigation Measure BIO 3.4-5 recommends that prior to the commencement of construction, a qualified biologist should conduct a survey of special-status plant species (several known species expected in the project area). If any of the special-status species are present at the time the survey is conducted, the area is to be fenced to ensure that it is not disturbed or destroyed during construction.
  - Some elements of the project would require the installation of pile-driven piers. The noise and vibration associated with pile driving in the water could potentially impact fish and marine mammals. Mitigation Measure BIO 3.4-6 recommends that the project sponsor prepare a NOAA-approved sound attenuation monitoring plan, which is to be implemented during construction. This plan is to include, among others: a) a seasonal restriction on in-water construction permitting a work window of June 1 through November 30.; and b) establishment of a safety zone for marine mammals; and c) a requirement to temporarily halt pile driving activities when a marine mammal enters the safety zone.

- To ensure maximum protection to trees, Mitigation Measure BIO 3.4-7 recommends that tree-related work (removal, planting and pruning) adhere to the provisions of the San Rafael Municipal Code Section 11.12 (Title 11- Public Works, Trees).
- *Cultural/Tribal Resources* - The DEIR has assessed cultural and tribal resource impacts associated with the project. The project has the potential to encounter archaeological resources during site grading and construction. As discussed above, tribal consultation with FIGR was initiated by City staff earlier this year. As a result of this consultation and consistent with the City's Archaeological Resources Protection Procedures, the DEIR recommends specific mitigation to be followed to address resources or human remains if encountered during construction. Mitigation Measure CUL-1 recommends that prior to construction, a qualified archaeologist provide resource awareness training to the project sponsor and construction personnel. The awareness training includes providing the personnel with the appropriate steps that are taken in the event resources are encountered. In addition, Mitigation Measure CUL-2 recommends specific procedures and protocols to be taken in the event human remains are encountered, which include notifying the Marin County Coroner and the appropriate FIGR representatives.
- *Traffic and Transportation* - The DEIR has assessed traffic and transportation related impacts associated with the project. While the restoration project would not result in any changes to traffic or transportation links and services when it is completed, project construction will result in temporary truck and construction vehicle traffic disruption in a residential neighborhood. Mitigation Measure TRAN-1 recommends that a Construction Traffic Control Plan be developed and implemented during construction. The plan is to include the development of a truck route, staging area and safe access, as well as pre-construction notification to San Rafael City Schools (Bahia Vista Elementary School near the project site).

### **Project Alternatives**

CEQA requires that an EIR describe a range of reasonable alternatives to a project, which would feasibly attain most of the basic objectives of the project with the goal to avoid or substantially lessen any of the significant effects of the project. During the NOP process several project alternatives were identified for consideration with some being rejected as they did not meet the basic project objectives. The DEIR has identified and assessed the following three alternatives, which includes a "No Project" alternative required by the CEQA Guidelines. The following is a summary of and the findings for each alternative:

1. "No Project" alternative (Alternative 1). This alternative assumes that the project would not be pursued or developed and that the site would not be restored. Under this scenario: a) the Tiscornia Marsh would continue to erode and would ultimately be eliminated over time; and b) the levee would not be raised so the area will continue to be vulnerable to impacts from increased flooding and projected sea level rise.
2. "Reduced Project – Reduced Tiscornia Marsh" alternative (Alternative 2). This alternative assumes a reduction in the area proposed for restoration. Specifically, the easternmost portion of the restoration area under the proposed project, which includes the coarse beach and marsh connection to the tidal channel would not be constructed. The impacts of bay fill under this scenario would be reduced; however, it would result in less habitat area and the new marsh would be more exposed to the bay tides making it vulnerable to future erosion.
3. "Reduced Project – Eliminate Diked Marsh Restoration" alternative (Alternative 3). This alternative assumes a reduction in the area proposed for restoration. Specifically, the westernmost portion of the restoration area under the proposed project, the diked marsh owned by the City of San Rafael

would not be constructed. The construction activity and site disturbance would be less under this scenario; however, it would result in substantially less habitat and flood protection benefit.

The CEQA Guidelines require that the EIR identify which of the studied alternatives is the “environmentally superior” alternative (the alternative resulting in the least environmental impacts). The DEIR has concluded that Alternative 3 would be the environmentally superior or “preferred” alternative as it involves the least amount of construction activity, grading and site disturbance. However, this alternative would only partially meet the project objectives and would result in substantially less habitat and flood protection benefit.

### **Conclusions**

The DEIR has been prepared in accordance with the CEQA Guidelines. The document is thorough, and the findings are supported by substantial evidence and sound technical studies. It is recommended that the Planning Commission direct staff to proceed with the preparation of the Final EIR/Response to Comments. This step will also include the preparation of a Mitigation Monitoring and Reporting Program (MMRP), which will lay out how the mitigation measures will be: a) mandated through the planning permit actions; and b) implemented to ensure that the significant impacts will be effectively reduced.

### **NEXT STEPS**

The environmental consultant will respond to the comments raised at the DEIR hearing and prepare a Final EIR (FEIR). The FEIR, along with the project planning applications (Use Permit and Environmental and Design Review Permit), will be considered by the Commission at the public hearing (tentatively scheduled for December 2021). The Planning Commission has decision-making authority over the requested permits, so its action on these applications is final unless appealed to the City Council.

### **CORRESPONDENCE**

Correspondence received as of the writing (or publication) of this staff report on the DEIR is presented is attached (Exhibit 2). Correspondence received after Wednesday, October 20, 2021 to Tuesday, October 26, 2021 will be forwarded to the Commission under separate cover and will be posted on the [Tiscornia Marsh webpage](#).

### **EXHIBITS**

1. Notice of Completion/Availability of DEIR; September 10, 2021
2. Correspondence/Public Comments

DEIR, plans/documents and supportive studies can be accessed on the [Tiscornia Marsh webpage: Tiscornia Marsh Restoration Project - San Rafael \(cityofsanrafael.org\)](#)



## Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

<b>SCH #</b>
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**Project Title:** \_\_\_\_\_  
 Lead Agency: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_

**Project Location:** County: \_\_\_\_\_ City/Nearest Community: \_\_\_\_\_  
 Cross Streets: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Longitude/Latitude (degrees, minutes and seconds): \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" N / \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" W Total Acres: \_\_\_\_\_  
 Assessor's Parcel No.: \_\_\_\_\_ Section: \_\_\_\_\_ Twp.: \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_  
 Within 2 Miles: State Hwy #: \_\_\_\_\_ Waterways: \_\_\_\_\_  
 Airports: \_\_\_\_\_ Railways: \_\_\_\_\_ Schools: \_\_\_\_\_

**Document Type:**

CEQA: <input type="checkbox"/> NOP	<input type="checkbox"/> Draft EIR	NEPA: <input type="checkbox"/> NOI	Other: <input type="checkbox"/> Joint Document
<input type="checkbox"/> Early Cons	<input type="checkbox"/> Supplement/Subsequent EIR	<input type="checkbox"/> EA	<input type="checkbox"/> Final Document
<input type="checkbox"/> Neg Dec	(Prior SCH No.) _____	<input type="checkbox"/> Draft EIS	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Mit Neg Dec	Other: _____	<input type="checkbox"/> FONSI	_____

**Local Action Type:**

<input type="checkbox"/> General Plan Update	<input type="checkbox"/> Specific Plan	<input type="checkbox"/> Rezone	<input type="checkbox"/> Annexation
<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Master Plan	<input type="checkbox"/> Prezone	<input type="checkbox"/> Redevelopment
<input type="checkbox"/> General Plan Element	<input type="checkbox"/> Planned Unit Development	<input type="checkbox"/> Use Permit	<input type="checkbox"/> Coastal Permit
<input type="checkbox"/> Community Plan	<input type="checkbox"/> Site Plan	<input type="checkbox"/> Land Division (Subdivision, etc.)	<input type="checkbox"/> Other: _____

**Development Type:**

<input type="checkbox"/> Residential: Units _____ Acres _____	<input type="checkbox"/> Transportation: Type _____
<input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____	<input type="checkbox"/> Mining: Mineral _____
<input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____	<input type="checkbox"/> Power: Type _____ MW _____
<input type="checkbox"/> Industrial: Sq.ft. _____ Acres _____ Employees _____	<input type="checkbox"/> Waste Treatment: Type _____ MGD _____
<input type="checkbox"/> Educational: _____	<input type="checkbox"/> Hazardous Waste: Type _____
<input type="checkbox"/> Recreational: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Water Facilities: Type _____ MGD _____	

**Project Issues Discussed in Document:**

<input type="checkbox"/> Aesthetic/Visual	<input type="checkbox"/> Fiscal	<input type="checkbox"/> Recreation/Parks	<input type="checkbox"/> Vegetation
<input type="checkbox"/> Agricultural Land	<input type="checkbox"/> Flood Plain/Flooding	<input type="checkbox"/> Schools/Universities	<input type="checkbox"/> Water Quality
<input type="checkbox"/> Air Quality	<input type="checkbox"/> Forest Land/Fire Hazard	<input type="checkbox"/> Septic Systems	<input type="checkbox"/> Water Supply/Groundwater
<input type="checkbox"/> Archeological/Historical	<input type="checkbox"/> Geologic/Seismic	<input type="checkbox"/> Sewer Capacity	<input type="checkbox"/> Wetland/Riparian
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Minerals	<input type="checkbox"/> Soil Erosion/Compaction/Grading	<input type="checkbox"/> Growth Inducement
<input type="checkbox"/> Coastal Zone	<input type="checkbox"/> Noise	<input type="checkbox"/> Solid Waste	<input type="checkbox"/> Land Use
<input type="checkbox"/> Drainage/Absorption	<input type="checkbox"/> Population/Housing Balance	<input type="checkbox"/> Toxic/Hazardous	<input type="checkbox"/> Cumulative Effects
<input type="checkbox"/> Economic/Jobs	<input type="checkbox"/> Public Services/Facilities	<input type="checkbox"/> Traffic/Circulation	<input type="checkbox"/> Other: _____

**Present Land Use/Zoning/General Plan Designation:** \_\_\_\_\_

**Project Description:** (please use a separate page if necessary)

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

## Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".  
If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> California Emergency Management Agency	<input type="checkbox"/> Parks & Recreation, Department of
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Pesticide Regulation, Department of
<input type="checkbox"/> Caltrans District # _____	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Division of Aeronautics	<input type="checkbox"/> Regional WQCB # _____
<input type="checkbox"/> Caltrans Planning	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Recycling and Recovery, Department of
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Fish & Game Region # _____	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> Forestry and Fire Protection, Department of	<input type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> General Services, Department of	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Health Services, Department of	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Housing & Community Development	
<input type="checkbox"/> Native American Heritage Commission	

### Local Public Review Period (to be filled in by lead agency)

Starting Date \_\_\_\_\_ Ending Date \_\_\_\_\_

### Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone: _____
Phone: _____	

Signature of Lead Agency Representative: \_\_\_\_\_  \_\_\_\_\_ Date: \_\_\_\_\_

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

**From:** [Jonathan Knight](#)  
**To:** [Theo Sanchez](#)  
**Subject:** I support the Tiscornia Marsh Project  
**Date:** Monday, October 18, 2021 12:24:02 PM

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Hello Mr. Sanchez,

I am writing as a Marin resident concerned both about environmental disaster and racial equity. The Canal District of San Rafeal is a valued part of the Marin community and we need to come together to protect it. The Canal is one of the most vulnerable communities to flooding and our most economic and racially vulnerable at the same time. This is very often a combination that leads to devastation for families. I fully support funding the Tiscornia Marsh Project and doing everything we can to protect our vulnerable communities.

Thank You,

--

Jonathan Knight

  
San Anselmo, CA 94960

**From:** [jess lerner](#)  
**To:** [Theo Sanchez](#)  
**Subject:** Feedback re: Tiscornia Marsh Project  
**Date:** Monday, October 18, 2021 11:29:55 AM

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Dear Mr. Sanchez,

**\*\*Please put these comments on record and share with relevant City Council members and officials.\*\***

Selected properties along the Canal shoreline are at high risk of coastal flooding due to sea-level rise and climate change, bay waves and tides are increasing in volume. Because the water level is increasing, severe flooding is likely to happen within 5 to 10 years, rather than 100 years as previously predicted.

**The land most vulnerable to sea level rise in Marin is also the home to one of the most vulnerable communities of color in the county.**

The goal of the Tiscornia Marsh project is to enhance the ecological function of the Tiscornia Marsh property and increase flood protection for the Canal neighborhood, while maintaining the community value of the Albert J. Boro Community Center and Pickleweed Park.

**We need funding for projects like this that will protect these most vulnerable communities from environmental catastrophe, and enhance the sustainability of the Bay at the same time.**

Please protect these communities, protect our ecological integrity, and do the work needed to face imminent risk from climate change and sea level rise now, and support the Tiscornia Marsh Project.

Thank you for sharing these comments!

Jess Lerner  
Fairfax

**From:** [Kristi Denham](#)  
**To:** [Theo Sanchez](#)  
**Subject:** Tiscornia Marsh Project  
**Date:** Monday, October 18, 2021 10:51:15 AM

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Dear Mr. Sanchez,

My family are long time residents of Marin. We support the efforts of the Tiscornia Marsh Project to protect the Canal Community from flooding due to rising sea levels. Please do all that you can to ensure that this project goes through. It is past time for us to address the dangers of sea level rise and its impact on our most vulnerable communities who always seem to be too easily forgotten, especially when the short term price is high and the wealthier communities around us don't see it as a problem they will face. Please. Do the right thing and support this important work.

Thank you in advance.

Sincerely,

Rev. Kristi Denham

**From:** [Anna Costello](#)  
**To:** [Theo Sanchez](#)  
**Subject:** Support the Tiscornia Marsh Project!  
**Date:** Monday, October 18, 2021 11:38:07 AM

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Dear Mr. Sanchez,

As a resident of San Rafael, I have seen firsthand how vulnerable the Canal community is to flooding and the hazardous weather conditions that climate change will continue to exacerbate. I wanted to express my full support for the Tiscornia Marsh Project which will both support the ecological well-being of the Tiscornia Marsh as well as protect the residents of the community with increased flood protection. This project is **vital** to proactively protect the community from flood damage and emergency scenarios. Please do all in your power to support the Tiscornia Marsh Project and the Canal community who is very vulnerable and requires our resources and attention now! Marin County values ecological sustainability highly and this project will be highly favorable to the wider Marin community.

The Canal residents are some of the most vulnerable communities to flooding, sea level rise, and climate change impacts in our county. Please support the Tiscornia Marsh Project to take proactive action to support the ecology and local community. Thank you for your attention and support!

Best,  
Anna

**From:** [Taylor Renee](#)  
**To:** [Theo Sanchez](#)  
**Subject:** Tiscornia Marsh Project  
**Date:** Monday, October 18, 2021 11:29:01 AM

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Dear Mr. Sanchez,

As a resident of San Rafael, I support the efforts of the Tiscornia Marsh Project to protect the Canal Community from flooding due to rising sea levels. This community is one of the most vulnerable populations and I believe it is critical to protect them by supporting this project. We will do whatever is necessary to protect the Canal District residents' homes because this community is valued as a major part of San Rafael and Marin County in general. Thank you for your consideration.

Sincerely,

--

Taylor Newcomb

*Birth Doula*



**From:** [LORI JOHNSON](#)  
**To:** [Theo Sanchez](#)  
**Subject:** Tiscornia Project  
**Date:** Monday, October 18, 2021 11:25:06 AM

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Dear Mr. Sanchez,

I am a resident of Marin County and I am writing to support the efforts of the Tiscornia Marsh Project to protect the Canal Community from flooding due to rising sea levels. It's no coincidence that the land most vulnerable to sea level rise in Marin is also the home to one of the most vulnerable communities of color in the state. We need to let the politicians know that we demand funding for projects like this that will protect these communities from environmental catastrophe and enhance the sustainability of the Bay at the same time.

Sincerely,  
Lori Johnson