

Nichols • Berman
Environmental Planning
110 East D Street Suite E
Benicia California
9 4 5 1 0

***MARIN COUNTYWIDE
PLAN UPDATE***

***Final Environmental Impact Report
Response to Comments
Amendment***

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY

State Clearinghouse No. 2004022076

JULY 2007

**MARIN COUNTYWIDE PLAN UPDATE
FINAL ENVIRONMENTAL IMPACT REPORT
RESPONSE TO COMMENTS AMENDMENT**

TABLE OF CONTENTS

	<i>Page</i>
Introduction	1
Response to Written Comments	4
Response to Planning Commission Meeting Comments	123
Errata	131

LIST OF EXHIBITS

1. St. Vincent's and Silveira Properties Acreages	39
---	----

INTRODUCTION

The *State CEQA Guidelines* requires that the lead agency (Marin County) prepare and certify a Final Environmental Impact Report (EIR) that includes a response to comments on the Draft EIR before considering a project for approval. The Lead Agency may provide an opportunity for review of the Final EIR by the public or commenting agencies, and this review should focus on the responses to comments on the Draft EIR, in accordance with *State CEQA Guidelines* Section 15089.

The lead agency must provide each public agency that commented on the Draft EIR with a copy of the lead agency's proposed response to that agency's comments at least ten days before certifying the Final EIR (see Public Resources Code Section 21092.5). Lead agencies are not required by Public Resources Code Section 21092.5 to provide pre-certification responses to individuals and organizations that commented on the Draft EIR, although they may choose to do so.

However, the Marin County *Environmental Impact Review Guidelines* provide for a minimum ten-day period for review of the Final EIR prior to any action to certify it. The County's guidelines state that the review of a Final EIR shall exclusively focus on the adequacy of the response to comments on the Draft EIR. A separate public hearing to receive testimony on the recommendations to certify or certification of a Final EIR shall not be required. Written comments received on the Final EIR response to comments within the review period deadline shall be considered together with any written or oral response from staff for the EIR preparer; at the time action is taken by the certifying or recommending body to certify the Final EIR.

Marin County prepared and, on June 4, 2007, circulated the *Marin Countywide Plan Update Final Environmental Impact Report*. A Notice of Availability of the Final EIR for review and notice of the public hearing of the Planning Commission to consider the Final EIR was published and began a 14-day review and comment period on the Final EIR ending on June 18, 2007. On June 11, 2007 the Marin County Planning Commission held a public hearing to consider the Final EIR.

In accord with Marin County EIR guidelines noted above, written responses to comments received at the June 11, 2007 Planning Commission meeting and during the 14-day Final EIR review period have been prepared. These responses address issues raised regarding the Final EIR Response to Comments. These written comments and responses present amplifications, clarifications and/or additional information that, in some cases, result in minor and insignificant modifications to the EIR. They do not, however, raise new or more severe impacts or new mitigations or alternatives not considered in the EIR and do not require recirculation for further review and comment in accordance with *State CEQA Guidelines* Section 15088.5. The written responses together with the comments are incorporated as a minor amendment to the Final EIR.

This Amendment recommends text changes to the Draft EIR and to the *Final EIR Response to Comments*. The text changes recommended in the original Draft EIR text have all been incorporated into the text in the Final EIR. In these instances, information that is recommended to be deleted is ~~crossed out~~, and information that is added is underlined.

Written Comments

Written comments on the Final EIR were received from the following agencies, organizations, and individuals. Numbers refer to the order of written comments and their accompanying responses.

STATE AGENCIES

1. Governor's Office of Planning and Research - Terry Roberts, Director, State Clearinghouse - June 20, 2007
2. California Department of Transportation - Timothy C. Stable, District Branch Chief - June 11, 2007
3. Department of Toxic Substances Control - Denise M. Tsuji - June 18, 2007

LOCAL AGENCIES, PUBLIC OFFICIALS, AND INTERESTED GROUPS

4. Bel Marin Keys Community Services District - Jim Johnson, District Manager - June 7, 2007
5. Campaign for Marin - Marjorie Macris, Chair - June 13, 2007
6. DFD Real Estate Services - Dale de Beauclair - June 18, 2007
7. Gray Panthers - John Kouns, Facilitator - May 30, 2007
8. Marin Audubon Society - Barbara Salzman, Conservation Co-Chair - June 18, 2007
9. Marin Conservation League - Roger Roberts - June 18, 2007
10. Marin County Commission on Aging, presented at June 11, 2007 Planning Commission hearing
11. Marin County Farm Bureau - Mike Gale, President - June 16, 2007
12. Marin Environmental Housing Collaborative - Katie Crecelius - June 6, 2007
13. The Non-Profit Housing Association of Northern California - Dianne J. Spauling, Executive Director - June 18, 2007
14. San Rafael Airport LLC - Len Nibbi - June 18, 2007
15. San Rafael Airport LLC - Bob Herbst, Airport Manager - June 18, 2007
16. San Rafael Airport LLC - Bob Herbst, Airport Manager - June 18, 2007
17. St. Vincent's School for Boys - Kent Eagleson, Executive Director - May 21, 2007
18. Southern Marin Bay Access Coalition - Tirrell B. Graham, Director and Robert T. Mott, Director - June 12, 2007

INTERESTED INDIVIDUALS

19. Adams, Broadwell, Joseph & Cardozo - Osha R. Meserve - June 5, 2007
20. Judy Binsacca - June 9, 2007
21. Jack Camilleri and Phyllis Gardner - June 15, 2007
22. David Coury - June 18, 2007
23. CSW/Stuber-Stroeh Engineering Group, Inc. - Al Cornwell - June 18, 2007
24. Marita M. Daly - June 12, 2007
25. Farella Braun + Martel - Christopher Locke - June 18, 2007
26. LSA Associates - Malcolm J. Sproul - June 14, 2007
27. Cela O'Connor - June 18, 2007
28. Jerri Romm - June 18, 2007
29. Ann and Gene Spake - June 11, 2007
30. James E. Stark - June 18, 2007
31. Judith Yamamoto - Co-chair Greater Muir Beach Neighbors - June 18, 2007
32. Margaret Kettunen Zegart - June 17, 2007

Additional written comment letters were dated and received after the close of the County's review period (June 18, 2007) and, as such, were not included in this document. A copy of the late comment letters are contained in the Community Development Agency's files.

Planning Commission Meeting Comments

Minutes of the June 11, 2007 Planning Commission meeting are included following the written comment letters and responses to comments. These are not verbatim minutes but rather provide a summary of the oral comments made at the public hearing.

RESPONSE TO WRITTEN COMMENTS

This section presents comment letters 1 through 32 that were submitted to Marin County on the Final EIR. The original letters are reproduced, and comments are numbered for referencing with responses. Some responses refer commentor's to other comments or responses in this section or to the Draft EIR or the *Final EIR Response to Comments* where specific topics are discussed.



ARNOLD SCHWARZENEGGER
GOVERNOR

#1

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



2007 JUN 22 10 28 AM '07
CYNTHIA BRYANT
DIRECTOR

June 20, 2007

MARIN COUNTY
COMMUNITY DEVELOPMENT

Tim Haddad
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

Subject: Marin County Draft 2005 Countywide Plan Update
SCH#: 2004022076

Dear Tim Haddad:

The enclosed comment (s) on your Final Document was (were) received by the State Clearinghouse after the end of the state review period, which closed on June 18, 2007. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2004022076) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

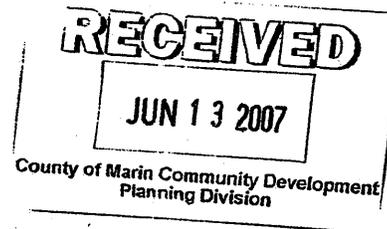
RESPONSE TO LETTER 1 - GOVERNOR'S OFFICE OF PLANING AND RESEARCH, TERRY ROBERTS, DIRECTOR, STATE CLEARINGHOUSE - JUNE 20, 2007

Response to Comment 1 - 1

Comment noted. The late comment referred to in the comment letter is from the State Department of Toxic Substances Control (see letter 3).

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5505
FAX (510) 286-5559
TTY (800) 735-2929



Flex your power!
Be energy efficient!

June 11, 2007

#2

MRN000055
MRN-Gen
SCH# 2004022076

Mr. Tim Haddad
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Dear Mr. Haddad:

Marin Countywide Plan Update – Final Environmental Impact Report (FEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the project referenced above. We have reviewed the Final Environmental Impact Report and have the following comments:

Freight and Goods Movement

Contrary to the statement in Response to Comment 3-2, North Coast Railroad Authority's freight rail line does not terminate near the junction of Highways 37 and US101. The line continues east from there generally along Highway 37 to Napa. The portion of this east-west line, known as the Lombard Segment, that is within Marin County runs between US101 and the Petaluma River, a distance of about 4.5 miles. When added to the approximately 8.5 mile segment that parallels US101 from the Marin-Sonoma County line north of Novato to the Highway 37/US101 interchange, the total mileage of the Marin County portion of the freight line is approximately 13 miles.

Should you require further information or have any questions regarding this letter, please call or email Ina Gerhard of my staff at (510) 286-5737 or ina_gerhard@dot.ca.gov.

Sincerely,

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: State Clearinghouse

RESPONSE TO LETTER 2 - CALIFORNIA DEPARTMENT OF TRANSPORTATION, TIMOTHY C. STABLE, DISTRICT BRANCH CHIEF - JUNE 11, 2007

Response to Comment 2-1

The commentor is correct in defining the North Coast Railroad Authority's freight rail line as continuing east from Highway 37 and U.S. 101, following an alignment roughly parallel to Highway 37 to Napa. Total mileage within Marin County is correctly identified as approximately 13 miles.

Based on this comment, Response to Comment 3-2 in the *Final EIR Response to Comments* is revised as follows:

The DEIR did not evaluate the impacts of increasing freight traffic on the North Coast Railroad as a potential relief for traffic congestion on U.S. 101 because that route is expected to ~~terminate from the north at Highway 37~~ follow an alignment parallel to U.S. 101 to approximately Highway 37 and then follow an alignment parallel to Highway 37 to Napa. The line, as currently configured, is expected to ~~and would~~ have a negligible impact to Marin County.



Linda S. Adams
Secretary for
Environmental Protection

#3



Department of Toxic Substances Control

Maureen F. Gorsen, Director
700 Heinz Avenue
Berkeley, California 94710-2721



RECEIVED
2007 JUN 19 P 2:23
Arnold Schwarzenegger
Governor
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 18, 2007

Mr. Tim Haddad, Environmental Coordinator
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, California 94903

Dear Mr. Haddad:

Thank you for the opportunity to comment on the draft Final Environmental Impact Report (FEIR) for the Marin County Draft 2005 Countywide Plan (CWP) Update (SCH # 2004022076), which encompasses unincorporated Marin County. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project under the California Environmental Quality Act (CEQA) adequately addresses any remediation activities pertaining to releases of hazardous substances.

The purpose of the Draft 2005 CWP Update is to set policy guidelines for future conservation and development in the county. Some comments were concerned with the adequacy of the draft 2005 CWP Update in addressing the environmental impacts of chemicals used to kill or control pest species. The County responded that Policy BIO-1.8 in the CWP calls for restricting the use of herbicides, insecticides and similar materials in sensitive habits, and encourages the use of integrated pest management and organic practices to manage pests with the least possible hazard to the environment.

DTSC notes that Policy BIO-1.8 does not address environments that have already been contaminated by the historical use of these pest control chemicals. DTSC recommends that site-specific chemical uses be addressed as part of the FEIR for the Draft 2005 CWP. For specific project sites, assessments of historical land uses should be conducted. Based on that information, soil sampling can be conducted to determine whether there is an issue that will need to be addressed in the project-specific CEQA compliance document. If hazardous substances have been released, they will need to be addressed as part of the project. For example, if remediation activities at the site include the need for soil excavation, the CEQA compliance document should include:

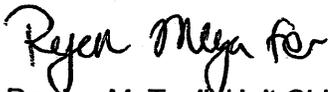
- (1) an assessment of air impacts and health impacts associated with the excavation

Mr. Tim Haddad
June 18, 2007
Page 2

activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident at the site.

If you have any questions or would like to schedule a meeting, please contact Allan Fone of my staff at (510)540-3836. Thank you in advance for your cooperation in this matter.

Sincerely,



Denise M. Tsuji, Unit Chief
Northern California - Coastal Cleanup
Operations Branch

cc: Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

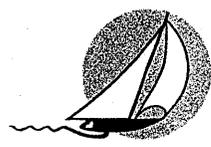
RESPONSE TO LETTER 3 - DEPARTMENT OF TOXIC SUBSTANCES CONTROL - DENISE M. TSUJI - JUNE 18, 2007

Response to Comment 3 - 1

The commentor expressed concern about sites in Marin County that have been contaminated by the historical use of pest control chemicals. As noted, Policy **BIO-1.8** would restrict the use of herbicides, insecticides, and similar materials in sensitive habitats.

The County's environmental review procedures could require preparation of a *Phase I Environmental Site Assessment (ESA)* for a site-specific project. *Phase I ESA* tasks typically include completion of a site survey, interviews, research of regulatory files, and review of historical land use documents. If warranted by the results of the *Phase I* study, a *Phase II ESA* would be prepared. The *Phase II ESA* could include a soil sampling program to confirm whether past land use practices at the site (e.g., prolonged applications of chemicals including pesticides and herbicides) have adversely affected the environmental quality of on-site soils and shallow groundwater. Depending on the results of the *Phase II ESA*, specific mitigation measures would be recommended.

CWPEIR



#4

Bel Marin Keys

Community Services District

**June 7, 2007
Marin County Community Development Agency
Alex Hinds, Director
3501 Civic Center Drive, Suite #308
San Rafael, CA 94903**

RECEIVED
2007 JUN -9 1 P 1:12
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Dear Mr. Hinds,

On June 6th the CSD office received your correspondence along with the Final Environmental Impact Report (EIR) for the Marin County Wide Plan Update and in the same document we were informed that comments must be submitted no later than 4:00 p.m. on June 18, 2007

Our agency is requesting an extension of the due date for EIR comments submittal to July 6, 2007. The EIR itself is an 875 page document and as a government agency we are required to hold a meeting to discuss and compile comments with our directors and Public Advisory Board, which is appointed by the Board of Supervisors, before submittal.

Please reply no later than June 12, 2007. Your assistance in this matter will be greatly appreciated. If you have any questions or concerns, please feel free to contact the District Office at (415) 883-4222.

Sincerely,

**Jim Johnson
District Manager
Bel Marin Keys CSD**

**Cc Supervisor Judy Arnold
Tim Haddad, Environmental Planner
Kristen Drumm, Environmental Planner
Board of Directors**

RESPONSE TO LETTER 4 - BEL MARIN KEYS COMMUNITY SERVICES DISTRICT - JIM JOHNSON, DISTRICT MANAGER - JUNE 7, 2007

Response to Comment 4 -1

The commentor requested an extension of the due date for comments on the Final EIR to July 6, 2007.

The Marin County Community Development Agency (CDA) responded to the commentor that it was unable to extend the comment period.¹ As noted by CDA staff, the Final EIR review period provided is an expanded County procedure for limited review of the *Final EIR Response to Comments* and is not the standard 45-day review and comment period on the Draft EIR mandated by *State CEQA Guidelines*.

The County conducted a 60-day Draft EIR review and comment period and two Planning Commission hearings to allow additional time to receive comments on the Draft EIR and has responded in writing to all of the comments received in the *Final EIR Response to Comments*. The Final EIR review period is a follow-up review intended under the County process to allow comments within a ten-day review period and focuses exclusively on the adequacy of the response to the comments received earlier on the Draft EIR. In the case of the *CWP Update* Final EIR, this review was set at 14 days to allow additional time for comments. The review period also included one Planning Commission hearing on the Final EIR.

¹ See letter to Jim Johnson, District Manager, Bel Marin Keys CSD from Tim Haddad, Marin County Environmental Planning Coordinator, June 13, 2007.

CAMPAIGN FOR MARIN

45 Wildomar Street, Mill Valley, CA 94941

Sierra Club Marin Group ☉ Marin Conservation League ☉ Marin Baylands Advocates ☉ Marin Audubon Society ☉ SPAWN ☉ Community Marin

June 13, 2007

RECEIVED

Marin County Community Development Agency
 3501 Civic Center Drive
 Room 308
 San Rafael, CA 94903

JUN 14 2007

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Re: Comments on Final EIR, Marin Countywide Plan Update

Ladies and Gentlemen:

Following are comments on the June 2007 Final Environmental Impact Report on the Marin Countywide Plan Update, submitted by the Campaign for Marin, a coalition of Marin environmental organizations that is following the preparation of the plan.

Environmentally Superior Alternative

The Campaign for Marin had requested (Feb. 12 and Mar. 5 letters) that Alternative 3, the Environmental Protection scenario, with the addition of the mitigations in the DEIR, should be designated the Environmentally Superior Alternative. The responses to comments on page 8.0-43 and 8.0-245 simply restate the position that Alternative 4, the Mitigated Alternative, is the Environmentally Superior Alternative, because it includes the mitigation. The response does not consider the recommendation we made. Please clarify your response.

Transportation/Land Use Consistency

2 The Campaign had requested (Feb. 12 letter) that the EIR analyze the amount of development that could be accommodated in the entire county, consistent with an acceptable level of service of transportation and other public services that can reasonably be expected to be funded. We also requested that the EIR indicate what transportation improvements would be necessary to bring traffic to an acceptable standard under the projected cumulative growth, including the cities as well as the county. The response to this comment on p. 8.0-238 is "Since the County cannot control the amount of development in the cities and towns the implementation of such an alternative as suggested by the commentor was determined to be remote and speculative." This response evades the point of requesting basic information about a major problem the DEIR brings to light—extreme traffic congestion brought about by excessive development. We had requested information, since the EIR is a disclosure document, about how the cumulative land use/transportation impacts can be brought into internal consistency by either reducing development or making more traffic improvements. Please clarify your response.

Wetlands Definition

3

The Campaign had requested (March 5 letter) that the EIR discuss impacts of the use of the Corps of Engineers definition of wetlands (requiring three criteria, as in the draft plan) rather than the Cowardin definition (requiring one criterion) on the quantity of lands that would be protected under wetlands policies. The response (p. 8.0-241) states that, among other points, "This would force the County to oversee all wetland delineations and verifications, with no other jurisdictional or trustee agency (like the Corps or Regional Water Quality Control Board) to take the lead on this issue. This would create additional process and oversight responsibilities for the County." A statement about administrative problems does not address the environmental impact question raised. Please clarify your response.

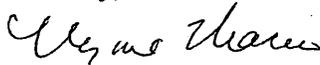
Global Warming Impacts

4

Another question that has recently arisen is the impacts of the plan on global warming. This is the major issue in the Attorney General's suit on the EIR on the San Bernardino County general plan. The other obvious question is how the effects of global warming will affect land use and development, for example in areas that will be inundated by sea level rise. Will the EIR on the Marin plan address these issues, and if so how?

Thank you for the opportunity to comment.

Sincerely,



Marjorie Macris
Chair, Campaign for Marin

RESPONSE TO LETTER 5 - CAMPAIGN FOR MARIN - MARJORIE MACRIS, CHAIR - JUNE 13, 2007

Response to Comment 5 - 1

The commentor states that *Alternative 3* with the incorporation of the Draft EIR mitigation measures should be the Environmental Superior Alternative. As discussed in Master Response M - *Alternatives* and in Response to Comment 26-1 in the *Final EIR Response to Comments*, the commentor's opinion favoring *Alternative 3* will be made known to Marin County decision-makers prior to adoption of the *CWP Update*. Based on making the necessary findings as to the feasibility of each alternative, the Board of Supervisors could adopt *Alternative 3* or a variation of one or more of the alternatives.

Response to Comment 5 - 2

The commentor requests that a study be done to determine the development capacity available with current and reasonably projected roadway and transportation conditions. Such a study is typically beyond the scope of a program level general plan EIR.

While it might be desirable to know how much development could be implemented in the incorporated cities and towns and in the unincorporated area with a given transportation system, such a study would be very difficult to complete in general, and impossible within the confines of a program EIR. There are a number of reasons for this complexity:

- The transportation model has as its inputs, a land use scenario that describes the mix, density, and location of development throughout the county. All types of development do not impact the transportation system in the same way. To determine impacts on the transportation system, it is necessary to first define the development being analyzed (i.e., number of housing units, square footage of retail and other types of non-housing development).

Transportation impacts are directly related to the location of development as well as the development mix. A housing development in Sausalito would have a very different impact on the system than a similar development in Novato. Therefore, to complete modeling both development mix and specific locations of development by traffic analysis zone must be known to run the model.

There is no single answer to "how much development capacity is available in a given transportation system", since there are an almost unlimited number of answers depending on where and what type of development is suggested for each of the traffic analysis zones in the county, as well as development outside of the county. Therefore, the EIR requires a more "reactive" analysis that analyzes the impacts of the proposed land use scenarios and determines specific mitigations for reducing the impacts of that particular development scenario on the transportation system.

- There are already a number of roadways in the county that do not meet level of service standards and are not able to be mitigated. These roadways were "grandfathered" into the *2005 Marin*

*County Congestion Management Program Congestion*². Based on the existing level of service on existing roadways, it is possible to conclude that no additional development is possible in Marin County. That is obviously not a viable conclusion, since the county continues to change over time.

To ensure that development does not outpace the ability of the transportation system to handle the growth included in the *CWP Update*, Mitigation Measure 4.1-2 includes a policy to correlate development and infrastructure, including transportation improvements. Policy **CD-5.3** in the *CWP Update* states that new development should only occur when adequate infrastructure is available, consistent with certain findings. One finding is that project related traffic would not exceed the level of service standards established in the circulation element. Policy **CD-4.f** in the *CWP Update* would have the County consult with the cities and towns to consider establishing a committee to, among several things, collaborate on housing, transportation, land use, and sustainability issues.

Response to Comment 5 - 3

The original comment, addressed in Response to Comment 25-1 in the *Final EIR Response to Comments*, pertains to definitions of wetlands and concern that features (e.g., seasonal wetlands and unvegetated mudflats) would not be regulated. As indicated in Response to Comment 25-1, the U.S. Army Corps of Engineers and / or the Regional Water Quality Control Board would most likely regulate these potential jurisdictional features. The *CWP Update* defines wetlands based on the definition provided by the Corps, which is the primary agency responsible for identifying jurisdictional waters regulated under Section 404 and 401 of the Clean Water Act, rather than the Cowardin definition. This is basically the same approach used in the *1994 CWP*, where the County did not assume some broader definition of wetlands. For informational purposes, an explanation was provided in the response on the responsibilities the County would be assuming if the broader definition of wetland provided under Cowardin was used in the *CWP Update*. These considerations, including staffing and financial feasibility, are not exclusively related to protection of the environmental resource. After review of this issue, the Planning Commission recommended accepting the wetland definition and related policies and programs in the *CWP Update*.

Response to Comment 5 - 4

The commentor questions the impacts of the *CWP Update* on global warming and how the effects of global warming will affect land use and development, for example in areas that will be inundated by sea level rise.

Issues related to global warming are discussed in both the Draft EIR and the *Final EIR Response to Comments*. Master Response L - *Analysis of Greenhouse Gas Emissions and Global Climate Change* discusses greenhouse gas emissions and global climate change. Master Response L directs the reader to specific pages in the Draft EIR where there is an analysis of the *CWP Update*'s impact to global climate change and related environmental issues such as sea level rise.

Master Response G - *Sea Level Rise* specifically addresses sea level rise and associated flooding of low-lying areas due to the impacts of climate change on San Francisco Bay. The sea level rise

² 2005 *Marin County Congestion Management Program*, prepared by Wilbur Smith Associates for the Transportation Authority of Marin, September 2005. See page 4.2 - 30 of the *Marin CWP Update Draft EIR* for a discussion of "grandfathered" roadway segments.

mapping project of the San Francisco Bay Conservation and Development Commission (BCDC) is discussed in this Master Response.

As noted in Master Response G, several policies and programs of the *CWP Update* respond to the issue of global climate change and sea level rise.

The commentor also noted that the State Attorney General's Office has recently filed a lawsuit challenging the global climate change analysis presented in San Bernardino County's EIR for its General Plan update. San Bernardino was one of the first California counties to update its General Plan following the enactment of State legislation in 2006, Assembly Bill 32 (AB 32), which directs the State to reduce its levels of greenhouse gas emissions to 1990 levels by 2020. AB 32 also requires the California Air Resources Board to develop regulations addressing global climate change impacts. Analytical methods for assessing climate change are rapidly evolving, and Marin County is now in the forefront of this analysis.

San Bernardino County's Draft EIR, which was released prior to AB 32, does not discuss greenhouse gases or global climate change. It does not attempt to quantify current, baseline greenhouse gas emissions in the county, nor does it attempt to estimate the increase in greenhouse gas emissions that will result from its General Plan update. The San Bernardino Draft EIR also contains no analysis of the probable or potential effects of the General Plan update on the reductions in greenhouse gas emissions mandated by AB 32. In response to comments highlighting these aspects of the Draft EIR, San Bernardino's Final EIR addresses these topics by listing policies and programs already incorporated into the General Plan that aim to reduce vehicle trip generation when compared to existing conditions. Aside from this listing, much of the discussion of greenhouse gases and global warming in the Final EIR is devoted to underscoring the global scope of these issues and the undeveloped nature of State action and leadership in the area, emphasizing the uncertain and unclear role of local governments in addressing the problem. The Attorney General's lawsuit alleges that the San Bernardino EIR fails to comply with CEQA because it does not adequately analyze the foreseeable impacts of the San Bernardino General Plan update on global warming and the implementation of AB 32 and fails to identify feasible mitigation measures to minimize adverse effects of the General Plan on global warming.

The *Marin Countywide Plan Update EIR* addresses the issues raised by the Attorney General in its lawsuit challenging San Bernardino's EIR. The *Marin Countywide Plan Update EIR* addresses the issue of climate change by analyzing the impacts of the *CWP Update* on increases in greenhouse gas emissions (see *Impact 4.3-6*). The EIR analyzes impacts based on a significance threshold of whether the *CWP Update* would result in an increase in greenhouse gas emissions over existing levels. The EIR includes a quantification of countywide emissions levels for the years 1990 and 2000 based on the *Report on Greenhouse Gas Emissions Analysis Report*, June 2003, which is included in **Appendix 1** to the Draft EIR. The report breaks down emissions by sector and establishes emissions targets and timetables as well as reduction measures, many of which are already underway in the county. For example, the County already offers solar rebates, operates internal energy efficiency programs, provides green business support and has established green building incentives and ordinances. The EIR quantifies the emissions reductions (in tons of CO₂) that the County expects to achieve by these and other *CWP Update* policies and programs. The County's reduction targets and timetables are substantially stricter than those established by California Assembly Bill 32.

In addition, the *Marin Countywide Plan Update EIR* proposes a number of mitigation measures to reduce emission of greenhouse gases. One mitigation measure proposes establishing a climate change planning process that includes approving and implementing the County's *2006 Greenhouse Gas Reduction Plan*. This plan presents a host of potential measures for reducing greenhouse gas

emissions beyond those already underway, as well as quantifies potential and existing annual greenhouse gas reductions likely to result from these measures. In addition, the *Marin Countywide Plan Update EIR* proposes a mitigation measure to implement proposed State programs to reduce greenhouse gas emissions including the Renewable Portfolio Standards, California Fuel Efficiency (CAFÉ) standards and a carbon cap and trade program.

Despite these measures, the *Marin Countywide Plan Update EIR* reaches a conclusion that impacts resulting from an increase in greenhouse gas emissions would be a significant and unavoidable project and cumulative impact.

DFD Real Estate Services

#6

June 18, 2007

RECEIVED

2007 JUN 19 P 2:24

Mr. Tim Haddad
Environmental Coordinator
Marin Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Re: Response to Comments to the Draft Environmental Impact Report, Marin
Countywide Plan Update, June 2007

Dear Mr. Haddad,

The comments below address the *Response to Comments to the Draft Environmental Impact Report, June 2007*. These comments are submitted on behalf of St. Vincent's School for Boys. *I am a licensed real estate broker and advise St. Vincent's School for Boys on land use issues.*

Response 57-2

The response does not address the following issues:

Lomita Park: Parcel 018-071-12 has a Land Use Designation (SF-6) that is inconsistent with the HOD criteria and exceeds an average of 20% slope.

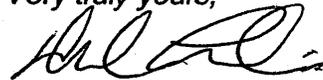
Idleberry School: Parcel 164-022-10 has a Land Use Designation (PF-SF-6) that is inconsistent with the HOD criteria

Gallinas Elementary School: Parcels 180-362-26 and 180-362-04 have Land Use Designations (PF-SF-6) that are inconsistent with HOD criteria.

Marinwood Shopping Center: Parcels 164-471-72 and 164-471-71 are restricted by deed to educational use only as stated by Dixie School District.

I look forward to your comments on these issues.

Very truly yours,



Dale de Beauclair

cc: Brian Cahill; Billy Reed; Stephen Kostka; James Stark

RESPONSE TO LETTER 6 - DFD REAL ESTATE SERVICES - DALE DE BEAUCLAIR - JUNE 18, 2007

Response to Comment 6 - 1

The commentor raised questions regarding four of the Housing Overlay Designation (HOD) sites (Lomita Park, Idleberry School, Gallinas Elementary School, and Marinwood Shopping Center).

Lomita Park - The commentor is correct Assessor Parcel Number (APN) 018-071-12 should not have been listed as a part of Lomita Park. The parcel is across the street and was inadvertently included.

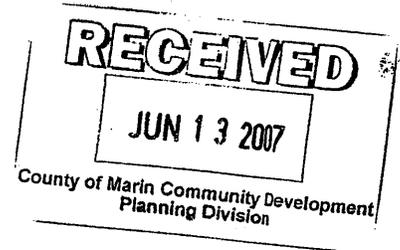
Idleberry School - The Public Facility (PF) land use designation is an allowable designation for an HOD site as per Policy **CD-2.3**.

Gallinas Elementary School - The Public Facility (PF) land use designation is an allowable designation for an HOD site as per Policy **CD-2.3**.

Marinwood Shopping Center - The commentor is correct that APNs 164-471-72 and 164-471-71 are owned by the Dixie School District. The County would not enforce any private restrictions that may exist on the parcels. It would be up to the Dixie School District to seek any necessary modifications if it were to pursue a HOD development in the future.

#7

Gray Panthers
May 30, 2007



Marin County Board of Supervisors
Marin County Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903

Dear Members of the Board of Supervisors and
Members of Marin County Planning Commission:

Gray Panthers of Marin strongly urge the Countywide Plan provide for up to 15% development of St. Vincent and Silveira lands that still preserves 85% of the hills, habitat and floodplains, and can maintain views of the historic church and Bay. As two Citizens Committees and an architectural design contest in the past planned for such development, there are significant reasons for negating current Planning Commission decisions to limit development to a 120 to 220 unit range.

There is no other site in the County that can offer substantial development. The need is absolutely critical for affordable workforce and senior housing. 80 % of Marin County is wonderfully preserved in open space, parks and agricultural preservation, with 85% of this site that would still provide further preservation. The location of these 1,200 acres between Highway 101 and the railroad, along with green building, would continue to preserve Marin County's high regard for our environment. Building a large enough community allows potential for adding shuttle buses to further reduce need for single occupant auto uses. Many jobs surround the area. If senior housing were included (considering current rapid population aging), workers for such a facility could live nearby. Cars in Marin have increased in the past decade three times the rate of population that we must turn around.

Sustainability, the basis for our Countywide Plan, requires integration of environment, economics and equity. Eliminating optimum development of this ideally located mid-county site is an attack on all three, but most importantly equity. With the median cost of single family homes near \$1 million, we who have lived here many years are appalled. We implore your fairness in designating feasible development on St. Vincent/Silveira as the only opportunity the County has for a new community to expand our sorely lacking housing opportunities that is economically and environmentally sound in planning for our present if not future generations.

Sincerely,

Gray Panthers of Marin

John E. Kouns
John Kouns, Facilitator

Meredith Grey
Gray Panther Housing Committee
P.O. Box 2874 San Rafael 94912

RESPONSE TO LETTER 7 - GRAY PANTERS - JOHN KOUNS, FACILITATOR - MAY 30, 2007

Response to Comment 7 - 1

The commentor states that the *CWP Update* should provide for up to 15 percent of the St. Vincent's and Silveira properties to be developed. This would allow for development of needed housing, especially workforce and senior housing. The comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.



#8

Marin Audubon Society

June 18, 2007

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

Marin County Community Development Agency
3502 Civic Center Drive
San Rafael, CA 94903

RE: COMMENTS ON FINAL DEIR

Dear Commissioners:

The Marin Audubon Society appreciates the opportunity to submit the comments below on the Final EIR for the Countywide Plan. While we appreciate the many informed responses but are disappointed that some of the responses simply restate comments in the DEIR, others do not actually respond to the questions asked, yet others are simply based on misinformation or erroneous information.

Responses to Marin Audubon Society comments:

36-1 & 2 These responses do not address the question, which sought adequate background information on the overall biological importance of Marin's bay related habitats and species that depend on them. Comment #1 was not "a baylands corridor issue" as stated in the response. Comment #2 specifically asked about migratory species. The importance of the Bay for migratory species is not addressed by the CWP sections noted cited even though we have consistently raised this issue in scoping and other comments. The only species that are addressed are special status species. The current CWP provides policy protection for migratory species. Failing to include protections for them in this plan would be a significant weakening of policies.

Furthermore, the Planning Commission voted unanimously to add migratory species to the policy. However, this action is not reflected in the updates at the back of the FEIR.

2 36-3 This response also misinterprets our question. We did not ask for a project-by-project analysis, but a cumulative impact analysis.

3 36-4 The response to our request to have sensitive natural habitats defined is unclear. It is not clear why the consultant thinks it would "limit consideration of certain community types in the future" if sensitive natural communities were defined in the Plan. To the contrary, identifying specific habitats would best ensure that all sensitive habitats are considered and that none fall through the cracks or are ignored. Should the habitats of concern change in the future, it could be modified then.

4 36-5 Our concern about the area around San Antonio Creek is relevant to the Baylands Corridor. Under the policies proposed, this area would not be included in the Baylands Corridor. This not only renders the plan internally inconsistent, but more importantly would weaken protections for

RECEIVED
2007 JUN 19 10:24
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

this area even though there may be other policies that provide some protection. The current policies, which are the only policies proposed to remain by the EIR consultants, refer to agricultural resources not biological resources.

5 36-7 The basic reason for rejecting our request for adoption of the Cowardin definition, is because it would be more work for the staff. The proposed approach would give uneven protections to wetlands, less protection to wetlands located away from the coastal zone and no regulation for wetlands inland of these coasts that could be considered to be isolated, even though San Francisco/San Pablo Bays are part of the largest and most important estuary on the West Coast of this continent. This is a time when the courts have weakened 404 jurisdiction by eliminating jurisdiction over isolated wetlands.

The CWP policies should be based on providing the best protection for these sensitive and invaluable natural resources, not the amount of work. The only extra work would be to address those wetlands that are not regulated by the Corps or the Coastal Commission, which would largely be restricted to diked baylands and limited wetlands inland. Costs for any additional staff time could be passed on to applicants who want to fill the wetlands. The EIR consultants could at least have investigated the experience of other the counties that do have a stronger definition than the Corps.

6 36-6 This response introduces a new concept to CWP policies, that of allowing out-of-kind mitigation for "degraded or very low value features." The consultants propose negotiating with regulatory agencies for out- of-kind mitigation based on wetland evaluation by consultants. "Low value" is not defined and should not be used as a tool for evaluating the kind of mitigation or the importance of wetlands. All wetlands are important and serve valuable, if sometimes, different ecological functions. Consultant evaluations can vary considerably depending on who does the hiring, the questions asked, and the consultants hired. The consultant-suggested approach would leave decisions on mitigation wetland types to be debated for each project and fortunately, was rejected by the Planning Commission.

It is curious that in numerous responses the consultants rely on the state and federal agency regulation to justify the adequacy of the CWP policies when, in this regard, the consultants do not believe the agencies are adequately regulating.

7 36-10 This response to our request for information about the importance of wetland setbacks provides only partial and superficial information: that a setback is important as "buffer." The consultants should have explained that the lands adjacent wetlands are essential components of the wetland habitats serving as refugia for endangered and other species, during times of high water levels, and providing foraging and nesting habitats for other species including San Pablo Song Sparrow, a special status species.

8 26-12 Rocky shorelines are not regulated as wetlands or waters of the US, as stated in this response. Therefore, would not be regulated by the regulatory agencies.

9 36-14 Restricting access to environmentally sensitive marshlands and adjacent habitats during spawning and nesting seasons is insufficient. These habitats are essential for many species particularly migratory waterfowl and shorebirds, during fall winter and spring months when they

are overwintering here. There is no ordinance to close trails during nesting season. Further, the study referenced in this response should be identified. The study commissioned by BCDC for their Public Access policies was prepared by Michael Josselyn PhD. and it concluded that public access does impact wildlife. Many other studies conducted throughout the country also have demonstrated adverse impacts of human access on wildlife. This is an insufficient misinformed response. Even if individual of some species may acclimate, this does not mean that the activity is not harmful to the species as a whole.

10 38- 4 Impacts of mariculture - This response appears to convey that mariculture protects water quality. The excrement of the many oysters in the beds adversely impacts water quality and there are many other adverse impacts of this activity.

38-9 This response does not appear to address the question we asked. It states here (and elsewhere through the EIR), that the adequacy of the CWP protections for wetlands is based in part on regulation by state and federal agencies. The adequacy of local plans should not be based on policies or programs of other agencies. The mandates, policies, and responsibilities of different government agencies vary, and implementation can also vary for many other reasons.

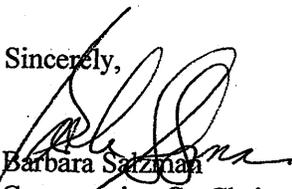
11 While biological assessments are necessary and important in many circumstances, determining the "value" of a wetland for development/mitigation purposes is not one of them. All wetlands are valuable. Protecting or ensuring in-kind mitigation means that the same type of wetland - e.g. fresh, salt brackish water, pond etc. - is restored. It does not mean that invasive species should be replaced. Some consultant can always find a reason to evaluate any given wetland as "degraded or low value features." Other consultants would evaluate that same wetland as having a different value, depending on the criteria used and questions asked, because there is no standard for what is low value. Fortunately the Planning Commission reinstated this provision.

Response to Marin Conservation League comment:

12 41-6 This response that "no public or private entity has come forward with a program for acquisition" of the St. Vincent's Silveira lands, is misinformed and erroneous. Marin Audubon Society in coordination with Marin Baylands Advocates and other Marin organizations that are part of the Campaign for Marin Baylands, have communicated our interest in acquiring these properties to the property owners. We have announced this at several public meetings, and in fact, we met recently with representative of St. Vincent's. Our "program" is the same as it has been for Bahia and the other acquisition we have made. To find funds from many different governmental, foundation and private sources to pay fair market value for the properties based on a legitimate appraisal.

Thank you for responding to our comments.

Sincerely,


Barbara Slatman
Conservation Co-Chair.

**RESPONSE TO LETTER 8 - MARIN AUDUBON SOCIETY - BARBARA SALZMAN,
CONSERVATION CO-CHAIR - JUNE 18, 2007.**

Response to Comment 8 - 1

Comment 36-1 in the *Final EIR Response to Comments* discusses the importance of shoreline habitat, including their use by migratory waterfowl and shorebirds, but does not specifically identify any concerns or deficiencies in the *CWP Update*. As indicated in Response to Comment 36-2 in the *Final EIR Response to Comments*, the Draft EIR analysis is not simply limited to special-status species but also addresses wildlife habitat. *Impact 4.6-4 Wildlife Habitat and Movement Opportunities*, on pages 4.6-42 through 4.6-46 of the Draft EIR, provides a detailed evaluation of the potential impacts of development and land use activities consistent with the *CWP Update* to existing natural habitat, habitat fragmentation, and obstruction of wildlife movement opportunities. This includes a summary of the relevant policies and programs in the *CWP Update* that would serve to protect and enhance wildlife habitat, movement corridors, and sensitive resources. The commentor is correct that baylands provide important foraging, resting, and nesting habitat for migratory and resident birds. The commentor is also correct that the Planning Commission directed that the *CWP Update* be revised to include migratory species but this was not included in **Exhibit 8.0-13** of the *Final EIR Response to Comments*.³ Policy **BIO-1.1** in the *CWP Update* has been revised as follows:

BIO-1.1 *Protect Wetlands, Habitat for Special-Status Species, Sensitive Natural Communities, and Important Wildlife Nursery Areas and Movement Corridors.* Protect sensitive biological resources, wetlands, migratory species of the Pacific flyway, and wildlife movement corridors through careful environmental review of proposed development applications, including consideration of cumulative impacts, participation in comprehensive habitat management programs with other local and resource agencies, and continued acquisition and management of open space lands that provide for permanent protection of important natural habitats.

Response to Comment 8 - 2

As indicated in Response to Comment 36-3 in the *Final EIR Response to Comments*, the Draft EIR evaluates potential impacts and cumulative impacts of development and land use activities consistent with the *CWP Update*. This includes acknowledgement of the land use activities identified as concerns by the commentor, on pages 4.6-30, 4.6-36, 4.6-40, 4.6-39 of the Draft EIR, among others. A quantified, project-specific or cumulative analysis for the various land use activities and their potential impact on sensitive resources is not possible on a countywide basis. The goals, policies, and programs in the *CWP Update* would serve to address potential adverse affects and cumulative effects of these land use activities. This includes conduct of a site assessment, minimum setback standards, and avoidance or mitigation for potential impacts to sensitive resources, regardless of parcel size. Collectively, these policies and programs would serve to address most project-level and cumulative related impacts on biological and wetland resources, as concluded in the Draft EIR.

As discussed in Response to Comment 9-1, below, during the process of attempting to further quantify potential cumulative impacts associated with future development consistent with *CWP Update*, the

³ See Response to Comment PH - M regarding the fact that some of the language in the column headed "Planning Commission Recommendation" in **Exhibit 8.0-13** do not exactly match all of the planning commission recommendations.

County GIS staff uncovered an inconsistency in the projected housing units and nonresidential floor area from those generated in November 2006 which were used in the analysis under *Impacts 4.6-1, Impact 4.6-2, Impact 4.6-3, and Impact 4.6-4* of the Draft EIR. County GIS staff reevaluated the projections from queries in November of 2006, and determined that a land use code was mistakenly used for a count of housing units, thereby making the data contained in the Draft EIR incorrect because they do not represent a numerical increment. County GIS staff ran the queries again and found that all estimates for overlap between parcels with some development potential and specific sensitive biological resources tended to be substantially less than those indicated in the Draft EIR.

As an example, the percentage of parcels where the projected 5,391 housing units would be located that contain areas that qualify as a SCA and WCA went from a reported 84 percent in the Draft EIR, to a revised estimate of 24 percent based on the corrected queries. The percentage of parcels with projected housing units where specific occurrences of special-status plant and animal species overlap all or portions of the parcels went from a reported 12.8 percent in the Draft EIR to a corrected 5.7 percent.

Fortunately, these corrected numbers all provide an indication that potential impacts of anticipated development on sensitive biological resources would generally be less than that identified incorrectly in the Draft EIR. Implementation of the policies and programs from the *CWP Update* would still be necessary to accurately identify sensitive resources, provide for their avoidance and protection, and ensure adequate mitigation where complete avoidance is infeasible. The Response to Comment 9-1, below, provides additional detail on the adjusted projections in relation to known sensitive resources, and corrections to the analysis presented in the Draft EIR.

Response to Comment 8 - 3

As indicated in Response to Comment 36-4 in the *Final EIR Response to Comments*, the definition of sensitive natural communities and some of the sensitive natural community types found in Marin County are identified on page 2-9 of the *CWP Update*. Policies and programs contained in the *CWP Update* would serve to protect these sensitive natural community types, as discussed under *Impact 4.6-2* in the Draft EIR. Additional sensitive natural community types, criteria used to map and identify them, and thresholds used to evaluate the significance of potential impacts may be developed or refined in the future, which was the point made in the response to comment, not that adequate protection be deferred.

Response to Comment 8 - 4

Policies and programs related to protection of streams, wetlands, and other sensitive biological resources would still be relevant to the area in and around San Antonio Creek. This would include establishment of an SCA along the entire reach of San Antonio Creek east of the U.S. 101 overcrossing, as this is a perennial stream that automatically qualifies for protections under the SCA policies and programs. The lower reaches of San Antonio Creek and Petaluma Marsh vicinity are included in all three of the Baylands Corridor options presented in the *CWP Update* (refer to Maps 2-5a, 2-5b, and 2-5c). The Baylands Corridor policies have been refined several times by the Planning Commission, in part to include possibly expanding the parcels north of Novato, which would include the lands along San Antonio Creek. As discussed in the Community Development Agency staff report of July 9, 2007, additional language has been recommended to revise Policy **BIO-5** to further define additional mapping and analysis needed during future deliberations in expanding the Baylands Corridor.

Response to Comment 8 - 5

As indicated in Response to Comment 36-7 in the *Final EIR Response to Comments*, the *CWP Update* defines wetlands based on the definition provided by the U.S. Army Corps of Engineers (Corps), which is the primary agency responsible for identifying jurisdictional waters regulated under Section 404 of the Clean Water Act, rather than the Cowardin definition. This is basically the same approach used in the *1994 CWP*, where the County did not assume some broader definition of wetlands. For informational purposes, an explanation was provided in the response on the responsibilities the County would be assuming if the broader definition of wetland provided under Cowardin was used in the *CWP Update*. These considerations, including staffing and financial feasibility, are not exclusively related to protection of the environmental resource. Staffs of the California Coastal Commission, Corps, Regional Water Quality Control Board, and several local agencies were informally consulted to determine whether they had any knowledge of local agencies adopting more rigid regulations related to protection of wetlands and waters, which no one was aware of at the time. After review of this issue, the Planning Commission recommended accepting the wetland definition and related policies and programs in the *CWP Update*. A site-specific delineation of potential wetlands and waters is typically required during environmental review as part of the required site assessment process. Providing an inventory of additional areas meeting the definition of “wetland” under Cowardin would require an extensive study, beyond the scope of the *CWP Update*.

Response to Comment 8 - 6

As explained in Response to Comment 36-8 in the *Final EIR Response to Comments*, wetland mitigation required by the Corps and California Department of Fish and Game (CDFG) typically involves “in-kind” replacement, meaning that any wetland habitat lost must be replaced with the same type of wetland habitat. While this may generally be a desirable goal, and one that is typically required by jurisdictional agencies, it is not always feasible or biologically desirable. Often times, the wetlands affected by proposed development consist of degraded or very-low value features, completely dominated by non-native species with only limited natural resource functions. These conditions would be determined as part of a site assessment, wetland delineation, and if necessary, a site-specific mitigation plan. The regulatory agencies involved in all aspects of this review would verify any consultant conclusions regarding existing wetland values and the adequacy of any proposed mitigation. Policy **BIO-3e** would call for establishing clear mitigation criteria as the Development Code is amended where goals and policies would be further defined.

Response to Comment 8 - 7

Comment 36-10 requested an explanation for why the terminology was changed from “buffer” to “setback”, and why a setback distance of 100 rather than 300 feet was used. The Planning Commission has indicated its preference that consistent language be used when specifying “setback” distances from known resources, such as jurisdictional wetlands. This setback area serves as a buffer. The 300-foot setback distance referred to by the commentator was identified as the minimum setback distance recommended from tidelands in the 1999 *Baylands Ecosystem Habitat Goals* report, as acknowledged on page 2-39 of the *CWP Update*. It was not recommended as a setback distance around all wetlands. The 100-foot distance used in the Wetland Conservation policies was used for consistency with the setback distances specified in the Riparian Conservation policies and Stream Conservation Areas. The commentator is correct that wetland setbacks may provide important refugia for special-status species, depending on location and other variables that can only be determined through site-specific assessment. This would be determined during the required site assessment process, with additional setback provided if required to protect essential habitat for special-status species.

Response to Comment 8 - 8

The commentator is incorrect in the assertion that “rocky shorelines” are not regulated waters of the United States. The Corps jurisdiction varies depending on whether the location is under tidal influence. In non-tidal areas, the limit of Corps jurisdiction is typically the Ordinary High Water Mark along streams and other freshwater bodies of water. In tidally-influenced areas, their jurisdiction under Section 404 of the Clean Water Act typically extends to the spring high tide elevation which usually encompasses all or most of a rocky shoreline. Policy **BIO-5.3** (*Leave Tidelands in Their Natural State*) provides a clear directive on the importance of retaining tidelands in their natural state.

Response to Comment 8 - 9

The concerns of the commentator regarding the affect of human intrusion into environmentally sensitive habitats are noted. Information on the San Francisco Bay Trail Wildlife & Public Access Study, overseen by the Bay Conservation and Development Commission, can be reviewed at the project website at <http://baytrail.abag.ca.gov/wildlifestudy.htm>. As noted in Response to Comment 36-14 in the *Final EIR Response to Comments*, any future trails along the shoreline of the Bay or other sensitive habitat areas would required detailed assessment, and would presumably be sited to avoid significant direct and indirect impacts to sensitive resources. The buffers to be established around wetlands and other sensitive resources as called for in Policy **BIO-5.7**, would be determined during the assessment and environmental review of proposed trail improvements.

Response to Comment 8 - 10

Response to Comment 38-4 in the *Final EIR Response to Comments* does not "convey that mariculture protects water quality". Discussion of Policy **AG-1.13** simply states that water quality protection for mariculture would also double as water quality protection for native species. Both native and non-native species require a certain level of "water quality protection" for a habitat to remain viable for the organisms living within the habitat. This policy does not address the varying requirements of different species for "water quality protection". Program **AG-2.h** would encourage a cumulative analysis of mariculture operations. Such an analysis may lead to water quality standards for native species protection. Policy **AG-2.7** would require that "other uses of county waters, including the need to protect coastal native wildlife species and water quality", occur in conjunction with mariculture. In addition, Policy **AG-2.8** points to the role State and federal agencies play in preventing the introduction of invasive species associated with mariculture.

Response to Comment 8 - 11

Response to Comment 38-9 in the *Final EIR Response to Comments* provides information on the broad issues raised by the commentator. Please see Response to Comment 7-6, above, for additional discussion on wetland mitigation.

Response to Comment 8 - 12

Comment noted. No additional response required.



#9

MARIN CONSERVATION LEAGUE

1623A Fifth Avenue • San Rafael CA 94901
(415) 485-6257 • Fax (415) 485-6259

e-mail: mcl@marinconservationleague.org • web site: www.marinconservationleague.org

RECEIVED

2007 JUN 18 P 12:15

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 18, 2007

Board of Directors

Roger Roberts
President

Daniel Sonnet
1st Vice President

Jana Haehl
2nd Vice President

Nona Dennis
Secretary

Kenneth Drexler
Treasurer

Peter Asmus
Betsy Bikle
Charles Brousse
Priscilla Bull
Carson Cox
Don Dickenson
Bruce Fullerton
Sara Johnson
Brannon Ketcham
Michelle Passero
Tim Rosenfeld
Lawrence Smith
Susan Stompe
Periann Wood

Mr. Wade Holland, Chair
Marin County Planning Commission
Civic Center
San Rafael, CA 94903

RE: Comments on Draft Countywide Plan (CWP) Update FEIR and Adequacy of EIR

Dear Mr. Holland:

The Marin Conservation League wishes to thank the Commission for the opportunity to comment on the Final Environmental Impact Report (FEIR) on the *Draft Countywide Plan Update*. We have conducted a selective review of consultant responses to comments on the adequacy of the Draft EIR, focusing on the questions raised in MCL's several submissions to the Commission and on issues of particular interest to MCL. We find that responses are generally "adequate" according to the standards and limitations established by CEQA. The Master Responses are an efficient way to consolidate responses to certain dominant questions raised. However, we note some specific exceptions to our generalization and request that they be addressed in order to insure that the EIR as a whole can be deemed adequate.

Master Response H and J – Stream Conservation Areas (SCAs), and Drainage, Erosion, and Sedimentation. Through these master responses and revisions and additions to policies and programs as mitigations, the FEIR attempts to ensure that the significant cumulative impacts of future development in SCAs will be mitigated to less than significant. The responses represent a great improvement, but in our view they fail to reach the less-than-significant threshold for the following reasons:

- The "cumulative" analysis in the DEIR is limited to an estimate of the relationship of projected development to (undeveloped) parcels that contain SCAs. Master Response H, on Page 8.0 – 27, roughly paraphrases the DEIR but adds nothing to the cumulative analysis, and in the process miscopies numbers from the DEIR and carelessly presents errors in arithmetic that further confuse.

Marin County's Environmental Watchdog

A nonprofit corporation founded in 1934 to preserve, protect and enhance the natural assets of Marin

- The EIR addresses only those impacts from developments that are subject to discretionary review. It does not attempt to account for the cumulative toll of "death by a thousand cuts" that now can occur as already developed properties, or agricultural properties, have encroachments and/or activities within SCAs.

- To qualify as an SCA, a perennial, intermittent, and ephemeral stream must have woody vegetation as a defining feature (or, along ephemeral streams, at least 100 feet of riparian vegetation or special-status species or sensitive natural community). Thus, a large number of ephemeral streams in an upper watershed where a high gradient profile prevents the establishment of riparian vegetation or even a sensitive natural (plant) community or habitat for special-status species would not qualify for this protection. Master Response J begins to address this issue, but the definition of ephemeral is limiting. Furthermore, we do not agree that it is too difficult to distinguish transitional boundaries between riparian and adjacent upland habitat to warrant overlooking herbaceous riparian vegetation as a defining characteristic of an SCA, even on small parcels. We are concerned that significant reaches of streams could be overlooked in considering cumulative impacts, especially if herbaceous vegetation is not included as a defining characteristic.

- The EIR conclusion that impacts of land uses and development consistent with the CWP Update on sensitive natural communities would be a less than cumulatively considerable relies upon effective implementation of relevant programs, and oversight by State and federal and trustee regulatory agencies (paraphrased). We do not question the good intention of this mitigation program, but believe it to be too dependent on an imperfect process that involves numerous State, federal and local agencies with varying jurisdictions; dependence on individuals to enforce regulations; uncertain funding and staffing levels; persistent need to coordinate efforts between county and agencies; and political shifts that can compromise interpretation of laws and regulations. Therefore, we believe that even with multiple mitigation strategies, impacts to SCAs and other sensitive natural communities will continue to suffer oversight failures leading to cumulatively considerable impacts.

2
Options for Development of St. Vincent's/Silveira Ranch. We are in accord with the revised CWP Update Policy SV-2.5 with respect to the development potential of these properties (See Response PH-49). However, we requested that the EIR provide consistent and reliable base numbers of acres (denominators) of various properties for purposes of calculating percentages that might constitute the "footprint" of development. This would include a reliable figure for currently developed portions of both St. Vincent's and the Silveira Ranch (such as the so-called "H-Complex" and "Honors Farm"); areas now owned by State Lands; and lands owned by Las Gallinas Valley Sanitary District. A map accompanied by an accurate table is essential to discussions of potential land coverage by development.

3

We also pointed out in MCL comment numbered "39-6" that preservation in perpetuity through acquisition of all or portions of St. Vincent's and Silveira properties was included as an option in the San Rafael Advisory Task Force Report. The FEIR responded that since no entity had come forward with a program for acquisition, "this option is not feasible at this time." As you are aware, the Task Force Report was never subjected to environmental review. If it had been, this option would have been analyzed along with other development alternatives. Such an option is probably no less feasible than a No Project alternative, which is required by CEQA. In view of other successful acquisitions, such as Bel Marin Keys Unit VI and Bahia, that may have seemed infeasible when development applications were under consideration, this option certainly warrants a cursory analysis of impacts before being dismissed.

4

General Observation on "Adequacy" as a Standard One of the paramount objectives of the EIR, both Draft and Final, is to be "adequate" and thereby protect the County from legal challenge -- i.e., to be "bullet-proof." Hence the mind-numbing repetition in the FEIR of the statement that "this program [or revision] . . . does not alter any of the conclusions in the EIR, nor trigger the thresholds for recirculation as identified in Section 15088.5 of the *CEQA Guidelines*". This could be stated once, with appropriate cross-reference in each instance. Other repetitive self-protective statements pepper the responses and, similarly, detract from the substantive response. In the concern over legal challenge, however, it is easy to overlook the real *utility* of the EIR, which is to work as an iterative process with the evolving CWP, each informing the other. In many instances, EIR mitigations have been integrated into the CWP Update process -- recast into the form of Draft policies and programs. These, in turn, have been revised or new ones have been added on the basis of comments on the DEIR from agencies, public, and commissioners. The real objective is not simply an "adequate EIR" but a better Countywide Plan. We commend the Commission for pursuing this objective.

Sincerely,



Roger Roberts
President

RESPONSE TO LETTER 9 - MARIN CONSERVATION LEAGUE - ROGER ROBERTS - JUNE 18, 2007

Response to Comment 9 - 1

The concerns of the commentor over the cumulative loss and degradation of streams and other sensitive biological resources are acknowledged. As pointed out by the commentor, the relevant goals, policies, and programs intended to protect sensitive resources must be effectively implemented if potential adverse project-level and cumulative impacts are to be adequately addressed.

The most effective way to address cumulative impacts to sensitive resources is to ensure that potential impacts are adequately addressed on the project-specific level, as discussed on page 6.0-13 of the Draft EIR. As indicated in Master Response H – *Stream Conservation Areas*, a site assessment is required where incursion into a SCA is proposed or where full compliance with all SCA criteria would not be met for any parcel size. An exemption to the SCA standards would be made on a case-by-case basis, depending on the results of the site assessment, recommendations in any required mitigation plans or other related documentation. Use of a site assessment is the most accurate method available to determine site-specific conditions, appropriate restrictions on proposed development, and adequacy of any proposed mitigation.

The standards and criteria defined as part of the policies and programs in the *CWP Update* would serve to inform the regulatory process and would serve to address both potential project-level impacts and the project's contribution to potential cumulative impacts. As concluded in the Draft EIR, with respect to special-status species and sensitive natural communities, implementation of the policies in the *CWP Update* and the mitigation measures recommended in the Draft EIR, the project contribution to these impacts would be less than cumulatively considerable. However, the *CWP Update* would make a cumulatively considerable contribution to eliminating or diminishing existing wildlife habitat values in the county, and contribute to a substantial reduction in the opportunities for wildlife.

The commentor points out that Master Response H contains errors in arithmetic that confuse the reader. Review of Master Response H indicates that one number was transposed from that contained in the Draft EIR. This correction to the third paragraph on page 8.0-27 of the *Final EIR Response to Comment* is shown below.

Impact 4.6-2 Sensitive Natural Communities, discussed on pages 4.6-35 through 4.6-40 of the DEIR provides a detailed analysis of the potential impacts of development and land use activities consistent with the *CWP Update* on sensitive natural communities. Areas qualifying as SCAs encompassing perennial, intermittent, and ephemeral streams with woody riparian vegetation are generally considered to support riparian habitat, a sensitive natural community type. The analysis in the DEIR provides estimates of the relationship of projected development to parcels that contain areas qualifying as a SCA. As indicated on page 4.6-37 of the DEIR, of the 5,391 projected housing units, 41.5 percent (approximately 2,230 units) would be located on parcels containing areas that qualify as a SCA. Of these ~~5,410~~ 4,510 units, approximately 11.5 percent (approximately 520 units) would be sited on parcels under 0.5 acres in size...

During the process of attempting to further quantify potential cumulative impacts associated with future development consistent with *CWP Update*, the County GIS staff uncovered an inconsistency in the projected housing units and nonresidential floor area from those generated in November 2006, which were used in the analysis under *Impacts 4.6-1, Impact 4.6-2, Impact 4.6-3, and Impact 4.6-4* of

the Draft EIR. GIS mapping was used to determine the overlap between specific resource and parcels that have development potential. This information was broken down based on parcel size consistent with policies and programs in the Biological Resources section of the *Natural Systems Element* (i.e., parcels under 0.5 acres, between 0.5 and 2, and over 2 acres in size).

The degree to which known occurrences of special-status species extend over portions or the entire parcel was reviewed on page 4.6-31 of the Draft EIR. The overlap between parcels that have some development potential and those with known occurrences of sensitive natural communities mapped by the California Natural Diversity Data Base, as well as parcels containing areas that qualify as a SCA or WCA, was reviewed on pages 4.6-36 and 37 of the Draft EIR. The overlap between parcels that have development potential and those with known wetlands (either as an SCA or WCA) was reviewed on page 4.6-41 of the Draft EIR. The overlap between parcels that have development potential and those containing SCA or some type of native woodland was reviewed on page 4.6-43 of the Draft EIR.

County GIS staff reevaluated the projections from queries in November of 2006, and determined that a land use code was mistakenly used for a count of housing units, thereby making the data contained in the Draft EIR incorrect because they do not represent a numerical increment. County GIS staff ran the queries again and found that all estimates for overlap between parcels with some development potential and specific sensitive biological resources tended to be substantially less than those indicated in the Draft EIR. As an example, the percentage of parcels where the projected 5,391 housing units would be located that contain areas that qualify as a SCA and WCA went from a reported 84 percent in the Draft EIR, to a revised estimate of 24 percent based on the corrected queries. The percentage of parcels with projected housing units where specific occurrences of special-status plant and animal species overlap all or portions of the parcels went from a reported 12.8 percent in the Draft EIR to a corrected 5.7 percent. Fortunately, these corrected numbers all provide an indication that potential impacts of anticipated development on sensitive biological resources would generally be less than that identified incorrectly in the Draft EIR.

Implementation of the policies and programs from the *CWP Update* would still be necessary to accurately identify sensitive resources, provide for their avoidance and protection, and ensure adequate mitigation where complete avoidance is infeasible. The following text shows the corrected estimates for anticipated residential and nonresidential development.

The discussion under *Impact 4.6-1* on pages 4.6-30 and 31 of the Draft EIR is revised as follows:

A detailed, parcel-by-parcel assessment would be necessary in order to accurately locate sensitive resources and assess potential impacts resulting from development consistent with the *Draft 2005 CWP Update*. However, a comparison of parcels that have development potential with known occurrence records for special-status species provides some indication of potential impacts.⁴

As shown in **Exhibits 3.0-14** and **3.0-15**, a total of 5,391 housing units would occur in the unincorporated area as a result of buildout of the *Draft 2005 CWP Update* land use plan. Specific occurrences of special-status plant and animal species (i.e., as monitored by CNDDDB) extend over

⁴ Marin County Community Development Agency provided data for this analysis based on queries of its Geographical Information Systems (GIS) database.

portions or all of the parcels where ~~12.8~~ 5.7 percent of the housing (approximately ~~690~~ 305 units) would be located.⁵

Of these ~~690~~ 305 housing units, ~~25~~ 45 percent (approximately ~~175~~ 139 units) would be located on parcels that are 0.5 acres or less in size. Such development would likely result in a significant adverse impact(s) to known sensitive resources given the limited flexibility in siting new structures or other improvements on parcels of this size. Another ~~25~~ 23 percent (approximately ~~175~~ 69 units) would be located on parcels between 0.5 to two acres in size. The remaining ~~50~~ 32 percent (approximately ~~340~~ 97 units) of these housing units would be located on parcels greater than two acres in size. Parcels of this size would provide some degree of added flexibility to avoid populations of known special-status species or their essential habitat.

Of the projected 1,236,781 square feet of nonresidential floor area that would occur in unincorporated Marin County, ~~5.1~~ 2.3 percent (approximately ~~62,800~~ 33,088 square feet) would occur on parcels where specific occurrences of special-status species (i.e., as monitored by the CNDDDB) extend over portions or all of the parcel. None of this anticipated nonresidential development would occur on parcels less than 0.5 acres in size. Of these ~~62,800~~ 33,088 square feet of nonresidential floor area, the majority (approximately ~~55,700~~ 21,800 square feet) of development would occur on parcels greater than ~~0.5~~ two acres in size and would ~~likely~~ provide ~~some degree of~~ flexibility to avoid sensitive resources. Approximately ~~3,000~~ 11,288 square feet would occur on parcels between less than 0.5 and 2.0 acres in size and could possibly result in significant adverse impacts to known sensitive resources given the limited flexibility in siting new structures or other improvements on parcels of this size.

The discussion under *Impact 4.6-2* on pages 4.6-36 and 37 of the Draft EIR is revised as follows:

A comparison of parcels that have development potential with known occurrence records for sensitive natural communities provides some indication of potential impacts of development consistent with the *Draft 2005 CWP Update*.^{6 7} As shown in **Exhibits 3.0-14** and **3.0-15**, a total of 5,391 housing units would occur in the unincorporated area as a result of buildout of the *Draft 2005 CWP Update* land use plan. Specific occurrences of sensitive natural communities (i.e., as monitored by CNDDDB) extend over portions or all of the parcels where ~~1.8~~ 1.3 percent of the housing (approximately ~~400~~ 74 units) would be located.⁸

Of these ~~400~~ 74 units, approximately ~~30~~ 24 percent (~~30~~ 18 units) would be located on parcels that are 0.5 acres or less in size. Such development would likely result in a significant adverse impact(s) to known sensitive resources given the limited flexibility in siting new structures or other improvements on parcels of this size. Approximately ~~ten~~ 14 percent (~~40~~ 10 units) would be

⁵ Marin County Community Development Agency, ~~November 2006~~ July 2007.

⁶ Marin County Community Development Agency provided data for this analysis based on queries of its Geographical Information Systems (GIS) database.

⁷ Again, it should be noted that, in general, further assessment would be necessary to determine the presence or absence of sensitive natural community types on undeveloped parcels and to accurately determine the potential impacts of any proposed development.

⁸ Marin County Community Development Agency, ~~November 2006~~ July 2007.

located on parcels between 0.5 to two acres in size. The remaining ~~60~~ 62 percent (~~60~~ 46 units) of these housing units would be located on parcels greater than two acres in size.

However, this relatively small percentage of units that would occur on these lands is most likely more an indication of the less rigorous monitoring by the CNDDDB than an absence of sensitive resources on undeveloped parcels. Consideration of parcels containing areas that qualify as a SCA or WCA under the County's GIS mapping program provides additional information as to the potential effects of development on sensitive natural communities. Such parcels most likely support sensitive natural communities, such as riparian scrub, riparian woodland and freshwater marsh, which are generally not closely mapped or monitored by the CNDDDB.

Of the 5,391 projected housing units, ~~41.5~~ 16.9 percent (approximately ~~2,230~~ 913 units) would be located on parcels containing areas that qualify as a SCA. Not including stream corridors and areas that may also qualify as a SCA, an estimated ~~42.4~~ 7.0 percent (approximately ~~2,280~~ 378 units) would be located on parcels that contain areas that qualify as a WCA. Collectively, ~~84~~ 23.9 percent (approximately ~~4,510~~ 1,291 units) of the total projected housing units would be sited on parcels containing areas that qualify as a SCA and WCA. Of these ~~4,510~~ 1,291 units, approximately ~~41.5~~ 20.0 percent (~~520~~ 258 units) would be sited on parcels under 0.5 acres in size. Approximately ~~ten~~ 14.5 percent (~~450~~ 187 units) would be located on parcels between 0.5 and two acres in size and approximately ~~66~~ 65.5 percent (~~3,540~~ 846 units) would be sited on parcels greater than two acres in size.

Of the projected 1,236,781 square feet of nonresidential floor area that would occur in unincorporated Marin County, 2.1 percent (approximately ~~26,100~~ 26,107 square feet) would occur on parcels where specific occurrences of sensitive natural communities monitored by the CNDDDB extend into or over the parcel. When combined with parcels containing areas that qualify as a SCA or WCA, an estimated ~~87~~ 71.4 percent of the parcels with nonresidential (e.g., commercial) development potential appear to contain some type of sensitive natural community. However, only 1.0 percent (approximately ~~11,870~~ 11,873 square feet) of the total 1,236,781 square feet of nonresidential floor area would occur on parcels less than 0.5 acres in size. Approximately ~~3.9~~ 2.8 percent (~~48,125~~ 35,126 square feet) of the total 1,236,781 square feet of nonresidential floor area would occur on parcels between 0.5 to two acres in size. The remainder (96.2 percent) would occur on parcels greater than two acres in size.

The discussion under *Impact 4.6-3* on pages 4.6-41 of the Draft EIR is revised as follows:

As discussed under *Impact 4.6-2 Sensitive Natural Communities*, approximately ~~84~~ 23.9 percent (approximately ~~4,510~~ 1,291 units) of the total projected 5,391 housing units would be located on parcels containing areas that qualify as a SCA and WCA. Of these ~~4,510~~ 1,291 units, approximately ~~41.5~~ 20.0 percent (~~520~~ 258 units) would be located on parcels under 0.5 acres in size. Approximately ~~ten~~ 14.5 percent (~~450~~ 187 units) would be located on parcels between 0.5 and two acres in size and approximately ~~66~~ 65.5 percent (~~3,540~~ 846 units) would be located on parcels greater than two acres in size.

Of the projected 1,236,781 square feet of nonresidential floor area development, almost ~~85~~ 69 percent of the parcels with such development potential appear to contain areas that qualify as either a SCA or WCA. However, only ~~0.9~~ 1.0 percent (approximately ~~11,630~~ 11,873 square feet) of the total 1,236,781 square feet would occur on parcels less than 0.5 acres in size. Approximately ~~3.9~~ 2.8 percent (~~48,190~~ 35,126 square feet) would occur on parcels between 0.5 and two acres in size. The remainder (96.2 percent) would occur on parcels greater than two acres in size.

The discussion under *Impact 4.6-4* on pages 4.6-43 of the Draft EIR is revised as follows:

As shown in **Exhibits 3.0-14** and **3.0-15**, a total of 5,391 housing units would occur in the unincorporated area as a result of buildout of the *Draft 2005 CWP Update* land use plan. Approximately ~~41.5~~ 16.9 percent (~~2,235~~ 913 units) of this housing would be sited on parcels containing areas that qualify as a SCA. Of the projected 1,236,781 square feet of nonresidential floor area that would occur in unincorporated Marin County, ~~64~~ 64 percent (approximately ~~756,140~~ 794,032 square feet) would occur on parcels containing areas that qualify as a SCA.

Streams tend to serve as important movement corridors for terrestrial and aquatic wildlife, and protection of areas that qualify as a SCA is essential to protect existing habitat functions and values. Areas of native woodland also tend to provide important habitat resources to wildlife, both within a SCA and away from stream corridors. An estimated ~~67.5~~ 36.3 percent (~~3,641~~ 1,958 units) of the 5,391 total housing units contain some type of native woodland cover. Approximately ~~56~~ 68.3 percent (~~690,300~~ 844,562 square feet) of the 1,236,781 square feet of projected nonresidential floor area development would occur on parcels containing some type of native woodlands. The relatively high percentage of parcels with future development potential that support areas of native woodlands provides an indication of the importance of protecting native trees and woodland cover in the review of future development proposals.

Response to Comment 9 - 2

The commentor expressed support for revised Policy **SV-2.5** but requested clarification of the existing acreages of the St. Vincent's and Silveira properties. Apparently, this is in response to Policy **SV-2.4**, which would make five percent of the land of each property available for future development.

Exhibit 4.1-13 in the Draft EIR shows that the St. Vincent's property is 740 acres and the Silveira property is 340 acres. These acreages are shown by assessor parcel number (APN) below:

Exhibit 1
St. Vincent's and Silveira Properties Acreages

Parcel	Acres	Use	Relation to Railroad Tracks	In Baylands Corridor
St. Vincent's Property				
155-010-04	12.1	Vacant	East of tracks	Yes: entire parcel
155-010-69	129.9	Rural-unimproved	East of tracks	Yes: entire parcel
155-010-70	119.5	Rural-improved	East of tracks	Yes: entire parcel
155-010-73	65.0	Rural-improved	East of tracks	Yes: entire parcel
155-010-74	65.0	Rural-improved	East of tracks	Yes: entire parcel
155-010-76	161.1	Rural-unimproved	East of tracks	Yes: entire parcel
155-010-77	317.3	Improved	West of tracks	Yes: portion (57 acres)
<i>Subtotal</i>	<i>869.9</i>			
<i>Minus tidelands</i>	<i>130.0</i>	<i>(parcels 155-010-73 and 74)</i>		
Total	739.9			
Silveira Property				
155-010-16	0.6	Rural-unimproved	West of tracks	No
155-010-17	1.1	Rural-unimproved	West of tracks	Yes: portion (1 acre)
155-010-23	1.3	Rural-unimproved	West of tracks	Yes: entire parcel
155-010-27	245.0	Rural-improved	West of tracks	Yes: portion (25 acres)
155-010-28	0.3	Rural-unimproved	West of tracks	No
155-010-59	1.3	Rural-unimproved	East of tracks	No
155-010-64	87.1	Rural-unimproved	East of tracks	Yes: entire parcel
155-121-16	3.5	Honor farm	East of tracks	No
Total	340.2			

Note: Several additional Silveira parcels (155-010-14, -15, -17, -18, and -30) are in the City of San Rafael.

Source: Marin Community Development Agency, 2007

Policy **SV-2.4** would require clustering of non-agricultural development on either the St. Vincent's or the Silveira properties on up to five percent of the land area of each property, or as determined through a site-specific analysis. The physical size of each property subject to Policy **SV-2.4** would be determined when a development application is filed with Marin County. It is acknowledged that the size of each property may vary over time. For example, in June 2007, Marin County approved a Lot Line Adjustment to transfer 66.2 acres (on APN 155-010-70) to the Las Gallinas Valley Sanitary District. Therefore, the current total acreage of the St. Vincent's property is 673.7 acres.

Response to Comment 9 - 3

As discussed in the *Final EIR Response to Comments*, the EIR does not analyze an option for preservation in perpetuity of the St. Vincent's and Silveira properties because there currently is no program for acquisition. Specifically, while there may be several willing purchasers, to date there has been no willing seller. Nevertheless, it is noted that preservation in perpetuity would represent a continuation of existing conditions on the two properties in that no additional development would occur. Existing conditions are described in the Environmental Setting of **Section 4.6 Biological Resources**. **Exhibit 4.6-6** shows the major known sensitive biological features of the St. Vincent's and Silveira properties. Presumably these features would be preserved under this option. Nothing in the EIR would preclude acquisition of the properties for preservation in perpetuity.

Response to Comment 9 - 4

Comment noted. No additional response is required.

**MARIN COUNTY PLANNING COMMISSION
HEARINGS ON COUNTYWIDE PLAN
REGARDING FEIR COMMENTS
JUNE 11, 2007**

**STATEMENT OF THE MARIN COUNTY
COMMISSION ON AGING**

Over the last week, since its release, we have searched through this over 850 page document and found that there are many places that we could comment on the comments. In the short time allotted here we believe that it is the **RESPONSE TO LETTER 56 - ST. VINCENT'S SCHOOL FOR BOYS, STEPHEN L. KOSTKA, BINGHAM MCCUTCHEN - MARCH 14, 2007**, where we are most qualified to comment. These sections are #4 and #8 regarding the Baylands Corridor and St. Vincent's.

A portion of the response to Letter 56:

"Again, the recommendations for expanding the Baylands Corridor is intended to provide for greater recognition of existing biological and wetland features,...." 8.0-517-519.

The "greater recognition" of existing biological and wetlands between the railroad track and Highway 101 as a reason for the "corridor" extension, is a not even thinly veiled attempt to exclude development of sorely needed senior housing in sufficient numbers to satisfy future demand.

The extension of the "corridor" to the highway has put up another barrier to what is needed in this county for its older adults. Apparently, no one in this process has really studied the needs of Marin's citizens and their radically changing age demographics. This "greater recognition" answer is an avoidance of the facts.

By extending the "corridor," two members of the Planning Commission, in order to be "consistent", so we understand, and probably through pressure from "Campaign Marin", have chosen to reverse their straw votes, basically *eliminating senior housing*—both congregate and assisted (called "senior care" in the documents). The lower development numbers will not justify affordable assisted living—and because of infrastructure costs, will result in mega mansions.

We do not see any private or nonprofit developer proposing the tiny number of "senior" units tucked into 121 market-rate and 100 "affordable" units. An affordable assisted living facility supported by the County, the Marin Community Foundation, other government help and private contributions, will not be an end result of this small number

of units or equivalent units. This is the economic reality and the Planning Commission is aware of this fact.

We recommend that the Baylands Corridor at St. Vincent's/Silveira be moved back to the railroad tracks. This would be the first step to enable plans for a "senior village" to move forward, the plans we heard from St. Vincent's for the first time at the April 23, 2007, Planning Commission hearings.

We at the Marin County Commission on Aging believe that every important entity with a stake in the welfare of Marin's seniors has identified the coming change in the composition of our population except the Planning Commission, as evidenced by its reversal on St. Vincent's plans for a senior village.

The attached California State Projections indicate that we are expanding from one in four over 60 in 2010 to one in three over 60 in 2020—and one in four will be over 65. But the scarier numbers, thanks to a healthier life style and medical advances are that nearly *23,000 citizens will be 75 and over in 2020*. This compares with approximately *17,000 in this group in years 2000 and 2010*.

Six thousand more over 75 years old is an incredible number for a county with only 250,000 people. Some 20% of those over 75 or 1,200 of our oldest adults, will need *affordable assisted living*. Approximately 50% of those over 85 will have dementia and Alzheimer's.

The Redwoods in Mill Valley, the most affordable large and efficient facility in the county, accommodates only 330—150 of them in "independent living" (small 2 room units with kitchens). It lacks a dementia/Alzheimer's unit within its four levels of congregate and assisted living. The average age is 85.

It will take the next 13 years to prepare to serve those *additional* 6,000 Marin citizens over 75. We need at minimum some 600 units to make a large dent in this crunch. St. Vincent's is an ideal location because it is near all three hospitals and doctors' offices and can support a kind of Redwoods II with its efficient scale.

Market-rate upscale facilities such as Smith Ranch Homes, Villa Marin and The Tamalpais as well as the smaller congregate and assisted living units in Drake's Terrace, the new assisted living Alma Via (Northgate) and Aegis will serve the 80% who can afford their beds—and hopefully many will live at home and "age in place". But this is nearly impossible for those senior seniors over 90 years old—local private caregivers are in short supply and many have to drive into Marin each day. Workforce housing near a Redwoods II can solve some of the problem.

The entities that have identified this projection of the aging of Marin—and it is reliable because the people are already here, just getting older—not only include the State of California, but the County's Health & Human Services Department and its Division of Aging and The Marin Community Foundation as well as the Commission on Aging.

The nonprofit senior housing developers EAH and Mercy Services have looked and looked for land—but Novato and Tamalpais Valley have turned them down for sites where they were ready to go forward.

The Planning Commission is not “planning” for Marin’s future. St. Vincent’s representatives told us here on April 23 that they would develop affordable assisted living on their lands. But the “straw” vote reconsideration of numbers from 500 units down to 221 on May 7, make it clear that most Planning Commissioners do not want to address the demographics of an aging county. Nowhere in this FEIR is this subject addressed. The Planning Commission’s reconsideration of development at St. Vincent’s, based on Baylands Corridor and the arbitrary new bay shore of Highway 101, is political and shortsighted.

In Summary, we recommend that the Planning Commission redraw the boundary of Baylands Corridor at Highway 101 and move it back to the railroad tracks.

We further recommend that St. Vincent’s/Silveira be authorized for development of at least 300 market-rate units—many oriented to seniors who would sell their \$1 million inaccessible hilltop homes and retain their Proposition 13 tax benefit by trading down to market-rate senior condominiums. Another 600 units would be “affordable” for seniors and have no kitchens, thus meeting traffic limitations because of the very low number of trips a day generated by this population.

The present 221 units is not sufficient to subsidize the affordable senior housing we need in Marin to serve our aging population and satisfy *living long* and *living well*.

MARIN TOTAL JULY 1, 2000			
AGE	TOTAL	MALE	FEMALE
ALL	248,473	123,200	125,273
0-4	13,417	6,773	6,644
5-9	14,263	7,355	6,908
10-14	14,425	7,458	6,967
15-19	12,441	6,652	5,789
20-24	9,793	5,564	4,229
25-29	13,498	7,337	6,161
30-34	17,833	9,362	8,471
35-39	21,363	10,812	10,551
40-44	22,708	11,251	11,457
45-49	23,146	11,226	11,920
50-54	22,697	10,893	11,804
55-59	17,024	8,371	8,653
60-64	11,460	5,539	5,921
65-69	8,986	4,304	4,682
70-74	8,079	3,642	4,437
75-79	7,224	3,068	4,156
80-84	5,121	2,068	3,053
85+	4,995	1,525	3,470

17,340 (handwritten note pointing to 70-74 age group)

MARIN TOTAL JULY 1, 2010			
AGE	TOTAL	MALE	FEMALE
ALL	252,440	125,573	126,867
0-4	11,424	5,831	5,593
5-9	13,836	7,060	6,776
10-14	13,810	6,968	6,842
15-19	14,942	7,825	7,117
20-24	15,814	8,712	7,102
25-29	13,616	7,731	5,885
30-34	10,311	5,817	4,494
35-39	13,780	7,242	6,538
40-44	17,707	8,913	8,794
45-49	20,904	10,231	10,673
50-54	21,938	10,595	11,343
55-59	21,942	10,405	11,537
60-64	20,997	9,861	11,136
65-69	15,070	7,200	7,870
70-74	9,464	4,366	5,098
75-79	6,636	2,968	3,668
80-84	5,020	2,042	2,978
85+	5,229	1,806	3,423

16,895 (handwritten note pointing to 70-74 age group)

MARIN TOTAL JULY 1, 2020			
AGE	TOTAL	MALE	FEMALE
ALL	251,260	124,710	126,550
0-4	10,363	5,273	5,090
5-9	10,141	5,151	4,990
10-14	12,020	6,121	5,899
15-19	14,772	7,657	7,115
20-24	15,550	8,404	7,146
25-29	16,558	9,114	7,444
30-34	16,693	9,113	7,580
35-39	14,255	7,799	6,456
40-44	10,555	5,548	5,007
45-49	13,710	6,824	6,886
50-54	17,318	8,438	8,880
55-59	19,966	9,539	10,427
60-64	20,368	9,616	10,752
65-69	19,474	8,972	10,502
70-74	17,391	7,819	9,572
75-79	11,229	5,034	6,195
80-84	5,930	2,480	3,450
85+	4,967	1,808	3,159

*22,126** (handwritten note pointing to 70-74 age group)

MARIN TOTAL JULY 1, 2030			
AGE	TOTAL	MALE	FEMALE
ALL	248,684	123,058	125,626
0-4	12,599	6,417	6,182
5-9	12,259	6,236	6,023
10-14	10,894	5,533	5,361
15-19	10,995	5,708	5,287
20-24	13,746	7,546	6,200
25-29	16,382	8,930	7,452
30-34	16,295	8,728	7,567
35-39	16,891	9,026	7,865
40-44	16,612	8,671	7,941
45-49	14,061	7,311	6,750
50-54	10,387	5,210	5,177
55-59	13,210	6,387	6,823
60-64	16,233	7,729	8,504
65-69	17,881	8,300	9,581
70-74	17,013	7,689	9,324
75-79	14,642	6,311	8,331
80-84	11,001	4,480	6,521
85+	7,583	2,846	4,737

33,226 (handwritten note pointing to 70-74 age group)

* 2007 New data: $103.5\% \times 22,126 = 22,900$

State of CA data, 2003

RESPONSE TO LETTER 10 - MARIN COUNTY COMMISSION ON AGING, PRESENTED AT JUNE 11, 2007 PLANNING COMMISSION HEARING

Response to Comment 10 - 1

The commentator objects to the Planning Commission action regarding the St. Vincent's and Silveira properties and decisions regarding the Baylands Corridor. The commentator provides information regarding Marin's aging population and the need to provide housing for that population. It is stated that the St. Vincent's and Silveira properties would be a good location for a substantial number of housing units to meet that demand. The comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.



#11

MARIN COUNTY FARM BUREAU

P.O. Box 219, Pt. Reyes, CA 94956

June 16, 2007

Marin County Planning Commission
Marin County Community Development Agency
Via fax: (415) 499-7880
And e-mail kdrumm@co.marin.ca.us

Re: Marin County Farm Bureau Comments on the FEIR for the Draft Countywide Plan Update

Dear Commissioners,

The Marin County Farm Bureau takes strong issue with many of the conclusions in the Environmental Impact Report with respect to the impacts the Countywide Plan will have on agriculture. The EIR is focused on the environmental impacts, and gives little importance to the economic and equity impacts which, according to the Goals of the CWP, are components that are supposed to be balanced with the environmental impacts.

Two glaring examples of this can be seen in two of the documents upon which the Countywide Plan is based, each of which can be found in the Appendices of the DEIR. One is the January 2004 *Trails Background Report*, upon which the CWP Natural Systems Element's Trails Section is founded, and the other is the *Marin County Agricultural Economic Analysis*, prepared by Strong Associates, November 2003, upon which the restriction on residential square footage was based.

The adverse impacts of trails on agriculture are completely omitted

The failure to consider the economic impacts that public access would have on agriculture operations renders the entire Trails Section of the Countywide Plan invalid. The *Trails Background Report*, prepared by the Marin County Community Development Agency, *entirely omits any* impacts on agriculture. In the section entitled, "Relationship to Other General Plan Elements and Documents" on page 2, it lists, among others, the Natural Systems Element. Under the Natural Systems Element, it specifies that trails relate to 1) the Biological Resources Section, and recommends that the CWP discuss how trails interact with the natural environment and animal habitat, and 2) the Open Space Section, wherein the CWP should discuss open space preservation. **Agriculture, although part of the Natural Systems Element of the CWP, is not even mentioned with respect to trails. No mention is made whatsoever of all the impacts (including the risk of the spread of disease, agriterrorism, theft, vandalism, liability, etc, etc.) of having trails across ag lands. The EIR should analyze the various impacts of realigning trails to avoid agriculture lands.**

On page 16, the *Trails Background Report* states that "the subject of liability will be omitted from the Trails Element" for reasons including the complexity of the liability issue, and the fact that the "liability reference may in of itself be provocative and thus undermine the spirit and intent of the Trails Element." **The liability issue is one that could have significant economic impacts on private agricultural landowners. For this reason, it should be fully addressed in the EIR, especially if it results in the realignment of trails in the CWP to avoid ag lands.**

The *Trails Background Report* was prepared in consultation with David Hansen, Planning and Acquisition Manager, Marin County Open Space District. **No representative from agriculture was involved in the development of the CWP's trail policies and programs.**

The adverse economic impacts of residential floor area restrictions regulations are omitted

The EIR does not take into effect the huge detrimental economic impact upon ag landowners whose property values will be significantly devalued by the reduction in development potential as a result of the aggregate cap placed on residential floor area. Nor does it discuss equity, which is sorely lacking in a regulation aimed at a specific segment of the county's population – those in agriculture zones.

The whole basis for the environmental impacts of large homes on ag land is based on the *Marin County Agricultural Economic Analysis*, prepared by Strong Associates, November 2003. This flawed report contains erroneous extrapolations drawn from what appear to be selective data chosen to justify a preconceived conclusion, which is that large homes will result in the discontinuation of agriculture. Neither residential development, nor the threat of residential development, has reduced the viability of agriculture in Marin County. Instead, many agriculturists and would-be agriculturalists are hindered by regulations making it difficult if not impossible to live and work on their land, and to be profitable. This regulation reduces the economic value of agriculture property itself, and increases the risk that lands will be converted to non-ag use as it impedes inter-generational transfer, facts that are not addressed at all in the EIR.

In addition, the Planning Commission, during the hearings, publicly acknowledged that the Strong report was flawed and that the conclusion it reached – that large homes lead to the demise of production agriculture – is not justified by the data. Also, when asked for examples in the last ten years of where this so-called "threat" has occurred, county officials, in a 5/30/07 meeting with a delegation of Marin County Farm Bureau officers and members, could only come up with one instance where a large home was built and where ag operations were discontinued (even though it was subsequently sold to a buyer who now has a viable ag operation there.)

2 In contrast, there have been several examples where large homes were denied and the property subsequently was turned into park or open space, eliminating production ag. And there are many instances of large homes on productive agricultural properties in the county, including one olive oil operation which, had the residential floor area restriction been in place at the time this property's owner sought permit approvals, the regulation would have prevented it. The economic impacts of the successes of these operations are not acknowledged in the EIR, nor are the positive impacts that prospective new agriculturalists would bring to Marin were they to be welcomed here, and the negative impacts that would result from regulatory barriers that discourage them from purchasing ag lands or from residing on their farms and ranches.

The EIR also repeatedly bases its justification of residential floor area restrictions on the theory that residential use conflicts with agricultural use (4.1-3 Land Use Conflicts Between Agricultural and Urban Uses, and 4.8-1 Conversion of Agricultural Lands to Non-Agricultural Uses). Housing for land owners and their families on ag lands is fundamental to agricultural viability; it does not conflict with it. Housing on ag lands is not "urban use."

Additionally, Option 4 (convening a working group to prepare criteria and/or standards...) has been inexplicably completely omitted in the "Summary of Planning Commission Recommendations for the CWP Update" (page 8.0 – 804.)

These omissions and unsupported conclusions in the EIR invalidate entire sections of the CWP regarding residential square footage limits, including Policy AG-1.4 and Programs AG-1.a and AG-1.b.

Among a long list of others, following are a few of the issues where the impacts on agriculture are not addressed adequately in the EIR:

The environmental and economic impact of SCAs remains inadequately addressed

3 Farm Bureau, along with many other commenters, maintains that streamside conservation areas should be evaluated on a site-specific basis. So doing would result in environmental impacts related to each site. The economic impact on ranchers and farmers of non-site-specific setbacks has not been addressed in the EIR, and the environmental impact of pre-determined SCAs cannot possibly be the same on every site.

Visual resources impacts are based on an unlawful premise

4 The CWP language stating that "agriculture provides visual open landscapes, green space and buffers" and that these "viewsheds" must be protected, assumes that ag landowners are willing for their lands to be a public resource. This is not the case. Ag lands are private properties, and the views of them are not a public right. The CEQA significance criteria, that a substantial adverse effect would result from building or activities on ag lands, are not met. This invalidates several sections of the CWP including DES 1.a, DES 1.b, DES 1.c, DES 3.b and AG-1.a.

Ill-defined impacts of agricultural processing and sales ignore impacts to agriculturists

5 An eleventh-hour revision during the planning commission hearings added language calling for revision to AG-2.c that seeks to "ensure agricultural processing and sales-related uses will not result in any significant impacts such as those related to traffic, noise and views." The effect of the change on the analysis in the EIR falsely states that this will "further support agricultural activities." This is simply not true. What it will do is add another regulatory layer and further restrict the ability of ranchers and farmers to conduct their businesses in the county, as well as open the door to third-party nuisance lawsuits from those who would claim that an ag operation poses a "significant" impact.

Marin County Farm Bureau's Position Paper has never been incorporated into the public record

6 While there are references to the comprehensive March 4, 2007 "Marin County Farm Bureau's Comments on the Marin Countywide Plan Revised Public Review Draft," to our knowledge this position paper has never been included in a staff report or among any comments distributed to the public, as have other voluminous letters on the CWP that have been included in the comments in the FEIR and elsewhere.

The length and breadth of the FEIR, like the DEIR, is such that there are inadequate resources and time available to comprehensively address it

7 Once again, the public review period for the latest 856 page document released on June 5th is too brief for adequate comment. The Marin County Farm Bureau continues to submit that the public cannot reasonably be expected to digest such a huge document and discern the impacts it will have on them. Only governmental agencies and well-funded non-governmental organizations have the time and resources to review it adequately and comment on it. It requires a team of experts and lawyers. It should be scrapped.

Respectfully submitted,

Mike Gale
President, Marin County Farm Bureau

Cc: Steve Kinsey, Supervisor, District 4
Stacy Carlsen, Agricultural Commissioner

**RESPONSE TO LETTER 11 - MARIN COUNTY FARM BUREAU - MIKE GALE, PRESIDENT -
JUNE 16, 2007**

Response to Comment 11 - 1

This comment primarily addresses merits of the *CWP Update* with respect to trails on agricultural lands. Without specifically mentioning trails, the EIR considers land use conflicts between agricultural and non-agricultural uses in *Impact 4.1-3 Land Use Conflicts between Agricultural and Urban Uses*. This impact mentions several of the concerns raised by the commentator that could occur through the public's use of trails: vandalism, theft, damage to livestock or crops, and the introduction of pests or disease.

The issue of trails on agricultural lands in Marin County is complex and must balance the needs of agriculturalists with that of expanding opportunities for recreation for the public. The County's primary interest is to locate trails within existing public right of ways rather than agricultural land.⁹ Trails proposed in the *CWP Update* on agricultural land represent planning goals to make future trail connections (e.g., for larger regional trail systems) and, as noted during the March 12, 2007 Planning Commission hearing, are not available for public use. The Open Space District is interested in working with willing agricultural landowners and the *CWP Update* contains measures (e.g., Program **TRL-2.d**) to require that trail design avoid impacts like those described above on agricultural lands. David Hansen, a representative of the County's Parks and Open Space District, characterized the relationship between the District and agricultural landowners that have trails on or near their lands as "good" and that existing trails on District lands have resulted in few problems as trail users are generally responsible.¹⁰

Response to Comment 11 - 2

While the commentator's opinions on the *Marin County Agricultural Economic Analysis*¹¹ are noted, it is inaccurate to state that the Planning Commission shares their reservations. At no time during the public hearings for *CWP Update* did the Planning Commission attempt to evaluate or repudiate the report.¹² The conclusion of the Strong report that large home sizes *could* drive land values beyond what agricultural operations support is supported by data and identifies an emerging threat to the future viability of Marin County agriculture.

Impact 4.8-1 Conversion of Agricultural Lands to Non-Agricultural Uses evaluates the potential for removing agricultural lands from production, whether from development (e.g., the construction of new residential or commercial buildings) or changes in land use designations. The EIR does not justify

⁹ Marin County Community Development Agency presentation to the Planning Commission at the March 12, 2007 public hearing.

¹⁰ Presentation made by David Hansen, Marin County Parks and Open Space District, to the Planning Commission at the March 12, 2007 public hearing.

¹¹ *Marin County Agricultural Economic Analysis*, Strong Associates, 2003.

¹² Marin County Community Development Agency communication with Wade Holland, Commissioner, Marin County Planning Commission July 6, 2007.

residential floor area restrictions; it merely evaluates which of the options could remove the least amount of agricultural land from production. The Planning Commission ultimately recommended a revised Option 1 that allowed greater building size (up to 8,500 square feet) than that originally evaluated in the Draft EIR.

The commentor is correct that housing for landowners and their families is fundamental to agricultural viability. *Impact 4.1-3 Land Use Conflicts between Agricultural and Urban Uses* evaluates the potential for land use conflicts created primarily by new urban uses (e.g., a housing subdivision) adjacent to or near agricultural lands (i.e., for non-agriculturalists) rather than housing for agriculturalists themselves. Therefore, the last paragraph on page 4.1 - 56 of the Draft EIR is deleted as follows.

~~Policy **AG-1.1** and Programs **AG-1.a** and **AG-1.b** would limit residential development and building size in order to maintain agricultural production as the principal use on agricultural lands. Program **AG-1.a** would consider four options to limit the size of dwelling unit and non-agricultural accessory structures in order to avoid the development of large residential estates that could increase land ownership costs beyond revenues that agricultural operations can generate. These options are discussed in detail in *Impact 4.8-1 Conversion of Agricultural Lands to Non-Agricultural Uses*.~~

Response to Comment 11 - 3

Comment regarding the need to evaluate Stream Conservation Area setbacks on a site-specific basis is noted. SCAs are an existing regulatory tool of the *1994 CWP* to protect important biological and hydrological resources that the *CWP Update* proposes to refine. The *CWP Update* considers SCAs on agricultural lands with Policies **BIO-4.1**, **BIO-4.11**, **BIO-4.12**, and Program **BIO-4.j**. Extensive agriculture presents challenges that may be best addressed through landowner education and coordination, as these uses are otherwise problematic as generally unregulated activities. Policy **BIO-4.1** would identify allowable uses within a SCA, which includes agricultural uses that not result in the removal of woody riparian vegetation, the installation of fencing within the SCA that prevents wildlife access to the riparian habitat, animal confinement within the SCA and a substantial increase in sedimentation.

Response to Comment 11-4

The EIR makes no assumption that agricultural lands are a public resource. However, such lands are part of the existing environment and contribute to the scenic values of Marin County's rural agricultural and park lands. Consistent with the *CEQA Guidelines*, the EIR evaluates potential adverse effects to existing viewsheds that could result from development under the land use maps, policies, and programs proposed in the *CWP Update* at a level of detail suitable for a General Plan.

With respect to development on agricultural land, the EIRs primary finding is that development of agricultural processing and visitor-serving uses could result in visual impacts (see Response to Comment 11-5, below, for additional discussion) if it were to be at a scale and density incompatible with the rural character. The EIR recommends mitigation (see Mitigation Measure 4.1-5) to prepare standards and criteria to reduce impacts (including visual) from such development. These standards and criteria would not preclude development, rather they would aid County staff and decision-makers during the County's environmental and design review of discretionary projects and balance the County's goals to support the economic viability of agricultural operations and protect the environment.

Response to Comment 11 - 5

The EIR acknowledges that the development of agricultural processing and visitor-serving uses on agricultural lands would have beneficial economic impacts to Marin County agriculturalists. Such uses would help maintain the economic viability of agriculture and protect against the future loss of agricultural lands. However, the Draft EIR notes on page 4.1-58 that a tension exists between policies that promote such uses with those intended to protect land needed for agricultural production. The Draft EIR further identifies specific impacts that could reasonably be expected from unregulated development of these uses (as permitted by the policies of the *CWP Update*) as appropriate for a General Plan level EIR:

The introduction of new agricultural processing, retail, sales, and visitor-serving facilities in the unincorporated area could result in land use conflicts. Such uses would remove agricultural lands from production and could be of greater scale and/or increased density than currently exist. These facilities could also result in increased noise levels, increased truck and tourist traffic, pedestrian / bicyclist and vehicle conflicts, degrade the visual character in rural areas, or be incompatible with existing rural residential development, agricultural operations, and other land uses.

(Citations omitted.)

The Draft EIR acknowledges that such impacts would be significant. However, it recommends the preparation of criteria and standards to limit development incompatible with sustainable agriculture as well as supporting the efforts of organizations, including the Marin County Farm Bureau, to ensure that new criteria and standards are consistent with the County's goals of improved agricultural viability and preservation and restoration of the natural environment. The Draft EIR concludes that such mitigation would reduce potential impacts to a less-than-significant level.

Response to Comment 11 - 6

The "Marin County Farm Bureau's Comments on the Marin Countywide Plan Revised Public Review Draft" (dated March 4, 2007) was included in the *Final EIR Response to Comments* (see letter number 43).

Response to Comment 11 - 7

See Response to Comment 4-1 above, regarding the 14-day comment period.



#12

Marin Environmental Housing Collaborative RECEIVED

Marin Environmental Housing Collaborative
PO Box 9633
San Rafael, CA 94912
415-686-5204

2007 JUN -7 P 2:00

June 6, 2007

Marin County Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Re: FEIR Affordable Housing Issues

Dear Chair Holland and Planning Commission Members:

Because the Final EIR does not fully analyze the differential impacts of affordable housing as compared with market-rate housing, the Marin Environmental Housing Collaborative recommends that a new policy be added to the Countywide Plan to increase the potential for additional affordable housing units.

New CWP Policy to Produce Affordable Units

What's missing in the new CWP is a clear policy to rezone sites for multi-unit housing, with development incentives for affordable housing. The number of sites currently zoned for multi-unit housing is extremely small, and those few sites are very constrained. The County needs to re-zone additional sites for multi-unit housing. The new CWP should add a policy indicating intent to implement the 2003 Housing Element Program H3.G9(g) which states "sites should be rezoned at sufficient densities to create incentives for housing production within the 5-year timeframe of the housing element."

The new policy should indicate that sites would be rezoned only after community-specific planning processes. The new CWP Policy should indicate that the County will tentatively identify unincorporated areas where there might potentially be environmentally friendly sites feasible for multiunit residential development and then begin discussions with residents in these communities. After working extensively with community residents and property owners, the County will rezone selected sites.

Sites zoned multiunit and designated for special incentives for the exclusive use of affordable housing will attract experienced multi-unit affordable housing developers and facilitate production of affordable housing.

HOD and Mixed Use Potential to Produce Affordable Housing

MEHC continues to support the Housing Overlay Designation (HOD) and mixed use land use categories because these two policies may produce some environmentally friendly affordable units. However, neither the HOD nor the mixed use policy is likely to produce a significant number of affordable units because:

1. Sites in the HOD and mixed use categories are already developed with viable commercial or institutional uses. Because neither policy includes incentives for owners of HOD sites to add affordable housing, market opportunities to add affordable housing will be rare.

Changes to Housing Element law (AB 2348, Chapter 724, Statutes of 2004, Government Code 65583.2 (g) require that Housing Element site analysis for non-vacant sites evaluate the extent to which existing uses constitute an impediment to additional residential development, recent development trends, market conditions, and incentives for residential development. Sites proposed for the HOD seem not to meet AB 2328 suitability standards.

2. FAR and LOS limits constrain development potential on HOD and mixed-use sites.
3. Redevelopment/reuse of intensely developed commercial and institutional sites for affordable housing is more difficult and much more expensive than developing vacant or underutilized land and therefore less attractive to experienced affordable housing developers.
4. Minimum housing density for parcels in the HOD is too low. It should be at least 30 units per acre. AB 2348 establishes a minimum density for Marin and other Bay Area counties of 30 units per acre for use in determining whether a locality has identified adequate sites to meet the housing need for lower-income households.
5. The project size limitation for exception to LOS constraints in Program TR-1.e is 50 units. This artificial project size limitation may limit funding sources and unnecessarily preclude an opportunity for a larger project to help satisfy the enormous unmet need for housing for Marin's workforce, low-income seniors, and those with special needs.

The Marin Environmental Housing Collaborative (MEHC) appreciates the County Planning Commission's sustained and extremely thorough consideration of every aspect of the Draft Countywide Plan (CWP). You have donated many, many days of your lives to this Plan and to Marin's future. Thank you.

If you have questions, please contact me at 415-892-9706 or email: creceliusk@aol.com.

Sincerely,



Katie Crecelius
Chair

RESPONSE TO LETTER 12 - MARIN ENVIRONMENTAL HOUSING COLLABORATIVE - KATIE CRECELIUS - JUNE 6, 2007

Response to Comment 12 - 1

The commentor states that the *Final EIR Response to Comments* does not fully analyze the differential impacts of affordable housing as compared with market-rate housing; therefore, the Marin Environmental Housing Collaborative recommends that a new policy be added to the *CWP Update* to increase the potential for additional affordable housing units.

The Final EIR does discuss the impacts of different land uses such as higher density housing versus lower density housing. Master Response A - *Transportation Impacts of Different Land Uses* responds to the concern that denser residential development should have less of an impact on the transportation network than other uses such as commercial or less dense residential. Master Response E - *Impact of Multifamily Units on Water Demand* discusses the issue of reduced water use of denser residential development (i.e. multifamily units) versus less dense residential (i.e., single-family homes).

The commentor's request that a new policy be added to the *CWP Update* to increase the potential for additional affordable housing units will be made known to Marin County decision-makers by inclusion in this document. However, the comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.



THE NON-PROFIT HOUSING ASSOCIATION OF NORTHERN CALIFORNIA

THE VOICE OF AFFORDABLE HOUSING SINCE 1979



BOARD OF DIRECTORS

- President*
Linda Mendofini
Eden Housing, Inc.
- Vice President*
Ann Silverberg
Bridge Housing Corporation
- Treasurer*
Alice Talcott
Community Economics, Inc.
- Secretary*
Veronica Stanford
Veronica Stanford Consulting
- Chris Black
Chariffee Housing Development Corporation
- Sally A. Carlson
Terra Search Partners
- Ryan Chao
Santella Housing, Inc.
- Dip Do
Tenderloin Neighborhood Development Corporation
- Kara Douglas
Costa Costa County Community Development
- Barbara Guasco
Mary Housing California
- Mary Henneary
San Francisco Mayor's Office of Housing
- Jan Lindenthal
South County Housing
- Mary Murtogh
FAH, Inc.
- John Stewart
The John Stewart Company

NPH STAFF

- Amie Hefz
Administrative Manager
- Megan Kirshy
Administrative Assistant
- Peggy Lee
Development Associate
- Paul Peninger
Co-Policy / Research Director
- Geeta Rao
Policy Director
- Kate Rosenblom
Communications & Marketing Associate
- Dianne J. Spaulding
Executive Director
- Evelyn Stevens
Program Coordinator
- Diane M. Williams
Communications Director

#13

June 18, 2007

Mr. Alex Hinds
Director
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

HAND DELIVERED (Hard Copy to Follow)

RE: Marin Countywide Plan Final EIR - Comments

Dear Mr. Hinds:

The Non-Profit Housing Association of Northern California (NPH) submits this comment letter on the Marin Countywide Plan Final EIR. Our comments relate primarily to the fact that the Countywide Plan would decrease affordable housing densities, would decrease economic viability of affordable housing and does not plan for enough overall housing growth. As a result, the Plan would increase sprawl (including north of Marin County) and therefore vehicle miles traveled and therefore carbon emissions and global warming. The Final EIR fails to analyze such impacts.

Since its founding in 1979, the Non-Profit Housing Association of Northern California (NPH) has focused on the production of well-planned and economically viable affordable housing. NPH works to advance affordable housing as the foundation for thriving families, individuals and neighborhoods. The housing cannot serve as that foundation, however, if family breadwinners must spend time away from their families while commuting great distances from areas where they are allowed to live to job centers where they are welcomed to work.

As stated earlier, the EIR fails to analyze the global warming impacts that potentially will result from the sprawl that the Countywide Plan will create. Particularly, the EIR lacks careful comprehensive analysis of the nexus between the Plan's piecemeal path to housing affordability/availability and the potential significant adverse impacts on transportation, greenhouse gases and climate change.

Mr. Alex Hinds
June 18, 2007
Page 2

Experts, including the California Governor's own climate advisers, have concluded that changing the land use patterns of how housing is developed is key to meeting the emissions reductions that AB32 (Global Warming Solutions Act of 2006) calls for. What is needed is more high-density housing near public transportation and employment centers to get people out of their cars. State Attorney General Jerry Brown recently said, "We can no longer pretend that carbon emissions don't exist," speaking of his lawsuit against the EIR prepared for a recent General Plan revision for one of the state's fastest growing counties, San Bernardino. The AG's comment letter on that EIR noted that approximately 40% of greenhouse gas emissions come from motor vehicles. Accordingly, land use planning that results in an increase in vehicle miles traveled (VMT) will increase greenhouse gas emissions and therefore the potential environmental impacts associated with global warming.

More than seven lawsuits have been filed around the state using the global warming threat to challenge building or planning proposals by developers and land use planning policies by local governments. The lawsuits broach a topic that virtually every climate-change expert in California agrees on: Sprawl is contributing to global warming. Dan Skopec, undersecretary of the Governor's Environmental Protection Agency has stated that: "We have to address land use to reach the AB32 targets."

The Marin Countywide Final EIR ignores the land use-climate change connection and the resultant potential environmental impacts.

A. Piecemeal Approach to Housing Affordability

Low-Density, Increased VMT, Increased Carbon Emissions:

The problem is this: Low-density affordable housing developments built far from where people work, and far from public transportation, increase everything from the energy use generated to bring water to outlying areas to the amount of miles people drive in their cars. By eliminating affordable housing overlay zones from the Marin Countywide Plan policy and maps and focusing on low-density housing developments, the Countywide Plan fails to address not only the housing needs but the potential significant adverse impacts of increased emissions and climate-change impacts. In other words, by shifting policies from one that accommodates more dense affordable housing, which increases the viability of increased transit use (density is critical to transit viability), to one focusing on low density (*i.e.*, land development patterns for affordable housing are sprawled in smaller clusters), the

Mr. Alex Hinds
June 18, 2007
Page 3

Countywide Plan will increase VMT and therefore carbon emissions and global warming impacts. The Final EIR fails to analyze these impacts.

Such an analysis is possible; the data are obtainable. Carbon emissions from cars can be quantified. The increase in VMT due to the Countywide Plan's land use policy change regarding affordable housing densities could be quantified. Such an analysis must be done. Although the Final EIR includes analysis of VMT and climate change, the Final EIR fails to analyze the connection between the two and, in particular, the connection between these items and the Countywide Plan's approach to affordable housing densities.

Economies of Scale in Affordable Housing Development:

The realities of development and management expenses make it extremely expensive and difficult to create affordable housing through small developments. A substantial amount of the cost of any development project is fixed and therefore higher per unit on smaller projects. As the size of the development increases, the fixed expenses per unit are reduced and enable the rental income or sales price to cover a larger portion of the cost per unit of an affordable development.

The Countywide Plan EIR is inadequate because it has ignored this economic reality. To the extent that the Countywide Plan's reduced density piecemeal approach to affordable housing renders such housing not economically viable, planning for such housing is as realistic in Marin County as zoning for snow. This is not just an economic impact. Affordable housing that does not get built in Marin will get built elsewhere – likely far north of Marin – to serve the population of lower-wage workers that are welcomed to work (but not live) in Marin. Such housing patterns will result in increased VMT, carbon and global warming impacts. The EIR must evaluate such impacts. The Plan professes a commitment to creating sustainable communities with housing opportunities for the local work force. The likelihood of that commitment to actually result in such communities being built must be examined.

This is not overly attenuated or hypothetical. Comprehensive review of the expiring Housing Element of the County of Marin and Marin's eleven cities and towns found policies that on paper promote the development of affordable housing have not translated successfully into sufficient new affordable housing in Marin over the past decade.

Mr. Alex Hinds

June 18, 2007

Page 4

B. Lack of Sufficient Planned Growth Generally Causes Sprawl

Growth in California is inevitable. According to city-data.com, California's population is expected to increase by approximately 15 million people between 2000 and 2025. The question is not if growth will occur, but where. Job centers in Marin and San Francisco will continue to grow. Unless housing is planned to grow accordingly near these job centers, it will *de facto* grow far from these job centers. Such growth will result in long commute distances, increased VMT and therefore carbon emissions and global warming impacts.

The Countywide Plan and EIR ignores this reality, focuses only on Marin, then concludes that growth in Marin is projected to be very slow. A close review of the Countywide Plan and EIR, however, uncovers a circular logic and self-fulfilling prophesy: because Marin historically has not zoned for growth, particularly dense growth or realistic affordable housing, Marin is not projected to grow, therefore Marin does not need to zone for growth. This results in a faulty premise that underlies the Plan's starting inputs. The Plan and EIR cannot hide behind regional housing needs projections, because these are based on Marin's history of not planning for, zoning and permitting housing.

The truth is that there is tremendous need for new housing in Marin. If Marin does not do more to accommodate such growth, housing will sprawl northward into Sonoma County and Mendocino County, resulting in more VMT and global warming impacts. The Countywide Plan and EIR ignore this. This should be analyzed. In particular, an alternative that included substantially more housing – particularly dense housing at infill locations near transit – should have been included and analyzed for its potential to reduce overall VMT (which do not respect the County's geographical jurisdictional boundaries).

C. Conclusion

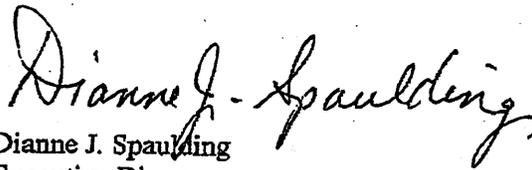
The Countywide Plan and associated EIR discloses that Marin County has one of the largest carbon footprints of all nine Bay area Counties, yet a population growth rate that is one of the lowest in the nine county Bay Area. The EIR then throws its hands in the air and equates the inevitability of VMT growth with death and taxes: "...as a general trend, VMT increases over time and VMT per [capita] continues to increase year after year under the *Draft 2005 CWP Update* and each of the alternatives. This increase in VMT is due because of the mobile society, the

Mr. Alex Hinds
June 18, 2007
Page 5

background pattern of suburban and rural development in Marin County, affluent lifestyles and future growth patterns and growth in cities and towns.”

Land use patterns determine VMT. The Countywide Plan is a land use planning document that will impact land use patterns. The EIR for the Countywide Plan, therefore, should not profess an inability to do anything about VMT. The EIR is inadequate, further study is needed and once that further study is completed recirculation is required.

Sincerely,



Dianne J. Spaulding
Executive Director
Non-Profit Housing Association of Northern California

RESPONSE TO LETTER 13 - THE NON-PROFIT HOUSING ASSOCIATION OF NORTHERN CALIFORNIA - DIANNE J. SPAULING, EXECUTIVE DIRECTOR - JUNE 18, 2007

Response to Comment 13 - 1

The commentor states that the Countywide Plan would decrease affordable housing densities, would decrease economic viability of affordable housing, and does not plan for enough overall housing growth. As a result, the *CWP Update* would increase sprawl (including north of Marin County) and therefore leading to an increase in vehicle miles traveled and related carbon emissions that contribute to global warming.

According to the commentor, the Final EIR ignores the land use-climate change connection and the resultant potential environmental impacts. As discussed in Response to Comment 5-4, above, contrary to the commentor's claim, issues related to global warming are discussed in both the Draft EIR and the *Final EIR Response to Comments*. Master Response L - *Analysis of Greenhouse Gas Emissions and Global Climate Change* discusses greenhouse gas emissions and global climate change. Master Response L directs the reader to specific pages in the Draft EIR where there is an analysis of the *CWP Update's* impact on global climate change and related environmental issues such as sea level rise. See Response to Comment 5-4, above, for additional discussion of global warming issues.

The Final EIR discusses the issue of increased vehicle miles traveled. *Impact 4.2-1 Increase in Vehicle Miles Traveled* and Master Response B - *Additional Measures to Control VMT* discuss this issue. As discussed in Master Response B in response to public input the Planning Commission has recommended a number of revisions to policies in the *CWP Update* that would help further limit vehicle miles traveled in the county. The increase in VMT remains, however, a significant unavoidable impact.

The need for affordable housing in Marin County is recognized in the *CWP Update*. As discussed in Response to Comment 56-6 in the *Final EIR Response to Comments* the *CWP Update* includes a number of policies and programs that would promote housing affordability. The *CWP Update* supports the County's certified Housing Element by adding policies and designations that would further encourage affordable and workforce housing: Policy **CD-2.3** (*Establish a Housing Overlay Designation*); Program **CD-2.a** (*Increase the Affordable Housing Supply*); Program **CD-2.d** (*Implement the Housing Overlay Designation Program*); Program **CD-2.n** (*Processing on Affordable Housing Projects*); and Policy **CD-8.7** (*Establish Commercial / Mixed Use Land Use Categories and Intensities*), among others. The need for economies of scale, as discussed in the comment letter, is recognized in the *CWP Update* by requiring densities of at least 25 units per acre for the HOD sites (Program **CD-2.d**).

SAN RAFAEL AIRPORT LLC

June 18, 2007

#14

2165 EAST FRANCISCO BOULEVARD, SUITE A
SAN RAFAEL, CALIFORNIA 94901
TEL 415/453-0212
FAX 415/453-0421

Mr. Wade Holland, Chairperson
Members of the Marin County Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903

Re: FEIR Response To Comments #50 re Hydrology/Flood/Water Quality

Members of the Marin County Planning Commission:

The purpose of this letter is to provide comments to the 'Response to Comments' section of the Final Environmental Impact Report.

Please add a condition that dredging projects in Gallinas Creek must include a slope stability analysis that demonstrates that the dredging will not adversely impact the levees protecting San Rafael Airport and Contempo Marin Mobile Home Park.

We object to New Program EH-3p on page 8.0-798 of the FEIR on the grounds that CEQA requires that the cumulative impacts of development on watersheds must be addressed now as part of the FEIR, and not as a follow-on item as proposed. If it is not addressed now, then no new development projects in the watershed should be allowed until such time as the cumulative assessment has been completed.

Sincerely,



Len Nibbi

cc Kristin Drumm, Community Development Department

2007 JUN 18 P 3:32
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

RECEIVED

RESPONSE TO LETTER 14 - SAN RAFAEL AIRPORT LLC - LEN NIBBI - JUNE 18, 2007

Response to Comment 14 - 1

The commentor raises questions regarding dredging projects in Gallinas Creek. Any dredging undertaken by Marin County Service Area 6, Marin County Flood Control and Water Conservation District, is permitted on a project-by-project basis, with the "dredging plan" based on sound engineering principles. This includes acquiring required permits from the U.S. Army Corps of Engineering (Corps), San Francisco Bay Conservation and Development Commission (BCDC), California Department of Fish and Game (CDFG), and the San Francisco Bay Regional Water Quality Control Board (RWQCB). Each dredging event is based on the funds available at the time of dredging. This will affect the cross-sectional area of dredge and the total volume of spoils dredged. Therefore, if a dredging event will only remove material in the center of Gallinas Creek and will not affect adjacent levees, no levee stability analysis would be required / necessary. In the event that Marin County was to undertake dredging activities that could affect adjacent levees, then sound engineering principles would be used to develop a "dredging plan".¹³

¹³ Clearwater Hydrology communication with Reuel Bradey and Tracy Clay at Marin County Flood Control and Water Conservation District, July 2007.

SAN RAFAEL AIRPORT LLC

June 18, 2007

#15

2165 EAST FRANCISCO BOULEVARD, SUITE A
SAN RAFAEL, CALIFORNIA 94901
TEL +15/453-0212
FAX +15/453-0421

Kristin Drumm
Community Development Dept.
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

JUN 18 10 33 32

RECEIVED

Re: Zoning Comments on draft Marin County General Plan and EIR

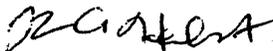
Dear Kristin:

In our discussions last week regarding the Baylands Corridor and San Rafael Airport, you suggested that we should request to have the runway and hangar area rezoned, in order to justify having it removed from the Baylands Corridor. We responded that the entire property should be removed from the Corridor for pilot safety reasons, and that our new General Plan designation and zoning must be consistent with the 1983 land use covenant signed by the County, City of San Rafael, and airport owners (copy attached). I sent you an email last week requesting the new General Plan designation for the San Rafael Airport lands that lie within County jurisdiction. I have not received a response, and therefore would like to place our concerns into the administrative record for the new General Plan and EIR update process.

The new General Plan designation and zoning to follow must be consistent with the land use covenant signed by the County, City of San Rafael, and airport owners in 1983. Permitted uses include the existing airport and industrial park, other airport related uses, public utility, roadways, recreation, and open space. The covenant is a binding legal contract, and therefore the new General Plan designation and zoning must be consistent with the covenant in order for both to be legally valid.

Page 8.0-840 of the Final EIR states that existing lawful uses within the proposed Baylands Corridor will be 'grandfathered'. However, no definition of this term is provided. If these uses are to be considered legal, non-conforming, or if the intention is to limit development to the size and intensity of the uses existing today, then we object that this violates the existing land use covenant, which contains no such limiting language.

Sincerely,



Bob Herbst
Airport Manager

cc Patrick Faulker, Counsel, County of Marin

RECORDING REQUESTED BY:

155-230-1-5, 6-7

AFTER RECORDING MAIL TO:

AGENCY SHOWN

AT MIN. DATE

DEC 16 1983

Official Records of Marin County, Calif.

William Bluff

REC'D *JTB* RECORDER

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS is made and entered into by and between the City of San Rafael, a municipal corporation (hereinafter referred to as "City"), the First National State Bank, a national banking association (hereinafter referred to as "Owner"), and the County of Marin, a political subdivision of the State of California (hereinafter referred to as "County"), in connection with the following circumstances:

(a) City is processing at the request of Owner a tentative subdivision map and final subdivision map relating to certain real property of Owner, including the real property designated as "PARCEL B" in the exhibit attached hereto and incorporated herein.

(b) As a condition for approval of said tentative subdivision map and final subdivision map, City has required, and Owner has agreed to, this declaration of restrictions on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Owner declares that the real property designated as "PARCEL B" in the exhibit hereto shall be held, transferred, encumbered, used, sold, conveyed, leased, and occupied, subject to the restrictions and covenants herein contained, expressly and exclusively for the use and benefit of said real property and for each and every parcel of real property owned by City and by County and by each of them.

1. Limitations On Use. No use of said real property described shall be made or permitted except the following:

RETURN TO: City of San Rafael, Department of Public Works, P.O. Box 60, San Rafael, California 94915-0060, ATTN: Office Engineer

RECORDING REQUESTED BY:

155-230-1-5, 6-7

AFTER RECORDING MAIL TO:

AGENCY SHOWN

AT NIL PARCEL

DEC 15 1983

Official Records of Marin County, Calif.

William S. ...
REC'D *JD* RECORDER

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS is made and entered into by and between the City of San Rafael, a municipal corporation (hereinafter referred to as "City"), the First National State Bank, a national banking association (hereinafter referred to as "Owner"), and the County of Marin, a political subdivision of the State of California (hereinafter referred to as "County"), in connection with the following circumstances:

(a) City is processing at the request of Owner a tentative subdivision map and final subdivision map relating to certain real property of Owner, including the real property designated as "PARCEL B" in the exhibit attached hereto and incorporated herein.

(b) As a condition for approval of said tentative subdivision map and final subdivision map, City has required, and Owner has agreed to, this declaration of restrictions on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Owner declares that the real property designated as "PARCEL B" in the exhibit hereto shall be held, transferred, encumbered, used, sold, conveyed, leased, and occupied, subject to the restrictions and covenants herein contained, expressly and exclusively for the use and benefit of said real property and for each and every parcel of real property owned by City and by County and by each of them.

1. Limitations On Use. No use of said real property described shall be made or permitted except the following:

RETURN TO: City of San Rafael, Department of Public Works, P.O. Box 60, San Rafael, California 94915-0060, ATTN: Office Engineer

**RESPONSE TO LETTER 15 - SAN RAFAEL AIRPORT LLC - BOB HERBST, AIRPORT
MANAGER - JUNE 18, 2007**

Response to Comment 15 - 1

The commentor requests that the San Rafael Airport property be removed from the Baylands Corridor. The commentor's request is on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

The commentor also questions the discussion in the *CWP Update* regarding "existing lawful uses will be grandfathered". The commentor notes that there is no definition of the term "grandfathered".

It should be noted that although the Baylands Corridor is shown graphically for both incorporated and unincorporated lands only those lands in unincorporated Marin County would be subject to the Baylands Corridor policies and programs. Therefore, development activities on airport property within the City of San Rafael would not be subject to the *CWP Update* Baylands Corridor policies and programs.

As discussed in the *CWP Update*, existing lawful activities would be permitted to continue. Furthermore, activities currently allowed will be permitted to continue and not be subject to additional County regulations. Examples of such activities cited in the *CWP Update* include repair and maintenance of bank erosion protection (e.g., riprap, plantings, etc.) and docks, levees or dredging of existing dredging channels (e.g., Novato Creek) including existing dredge disposal sites. However, future new activities in the unincorporated area would be subject to the Baylands Corridor policies and programs. In regard to evaluation of future development projects, Program **BIO-5.c** (*Update Development Code*) would identify criteria to be used in evaluating proposed development projects, and appropriate development restrictions necessary to protect sensitive biological and wetland resources.

SAN RAFAEL AIRPORT LLC

June 18, 2007

#16

2165 EAST FRANCISCO BOULEVARD, SUITE A
SAN RAFAEL, CALIFORNIA 94901
TEL 415/453-0212
FAX 415/453-0421

Mr. Wade Holland, Chairperson
Members of the Marin County Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903

Re: FEIR Response To Comments #66 on Aircraft/Wildlife Strike Hazard

Members of the Marin County Planning Commission:

The purpose of this letter is to highlight inadequacies in the 'Response to Comments' section of the Final Environmental Impact Report, and based on those inadequacies, **to request that the San Rafael Airport property be removed entirely from the Baylands Corridor on the grounds of pilot safety.**

The FAA, EPA, and US Fish & Wildlife Service have signed a Memorandum of Understanding stating that "increasing bird and wildlife populations in...areas near airports contribute to escalating aircraft-wildlife strike rates" and that "aircraft wildlife strikes are the second leading causes of aviation-related fatalities". Since the very purpose of the Baylands Corridor is to enhance wildlife and wildlife habitat, it is senseless and reckless to include an airport in the Corridor.

We alerted County Planning staff to this dangerous conflict in early March. Their response was they didn't think it was important enough to be analyzed in the EIR (see attached email). In a meeting on June 12th, we were told by staff that they had been unaware of the issue until we raised it in March, and therefore they didn't have enough time to analyze the problem prior to finalizing the EIR.

The result is that in a 1500 page General Plan and EIR, containing 80 pages devoted to biological issues, the following single sentence is devoted to analyzing and addressing the potentially deadly conflict between wildlife and aircraft:

"Any efforts to restore or enhance wetlands located west of Gness Field or in the vicinity of San Rafael Airport would have to be balanced with the possible safety concerns that increased activity by birds and other wildlife may have on airport operations."

80 detailed pages versus this 1 generic sentence falls terribly short of the balancing test required under CEQA where there are competing interests. CEQA Section 15088(c) requires that recommendations and objections to the EIR must be addressed in detail giving reasons why specific comments and suggestions were not accepted. Clearly that has not happened here.

CEQA section 15086 requires the County to consult with the State Dept. of Aeronautics and FAA regarding this issue, but there is no evidence in the record that

2007 JUN 19 11:32
MARIN COUNTY
COMPLAINT DEPARTMENT

RECEIVED

this ever took place. The inaccurate and vague content of the County's single sentence response demonstrates that these expert agencies were not consulted. For example, what does "in the vicinity of San Rafael Airport" mean? As we related to staff many times, the FAA recommends that no wildlife attractants be located within 10,000 feet of aircraft movement areas. Further, wetlands are not the only type of habitat that attracts hazardous wildlife. Upland management practices can be equally dangerous as detailed in the 132 page manual published by the FAA ("Wildlife Hazard Management at Airports").

Clearly this issue has received inadequate treatment in the County General Plan and EIR. The County's response to this issue is not legally defensible nor is it good public policy. The Baylands Corridor is for wildlife while airports are for people and aircraft. The two should not be combined.

We request the following modifications to the General Plan and EIR to adequately protect pilot's lives and property from the known dangers of wildlife strikes:

1. Remove all land within the San Rafael Airport levees from the Baylands Corridor (as US Fish & Wildlife did in 2001 for their proposed Marin Baylands Refuge).
2. Modify the EIR and General Plan language to state that "any proposed land use practices within 10,000 feet of Gness Field and San Rafael Airport shall demonstrate their compliance with FAA guidelines regarding wildlife attractants."

Thank you for your attention to this important matter.

Sincerely,



Bob Herbst
Airport Manager

cc Kristin Drumm, Community Development Department
Patrick Faulker, Counsel, County of Marin

**RESPONSE TO LETTER 16 - SAN RAFAEL AIRPORT LLC - BOB HERBST, AIRPORT
MANAGER - JUNE 18, 2007**

Response to Comment 16 - 1

The commentor raises questions regarding potential aircraft / wildlife strike hazards. The commentor is correct; collisions with birds can be dangerous to planes. Birds can be drawn to certain bodies of water, or areas for feed such as fresh landfills or large grassy areas. These areas are referred to as “attractive uses”. In response to these concerns the Federal Aviation Administration (FAA) and U.S. Department of Agricultural have prepared *Wildlife Hazard Management at Airports, A Manual for Airport Personnel* (Manual).¹⁴ Depending on the type of aircraft at a specific airport, the FAA recommends a 5,000 to 10,000 foot buffer between airports and attractive uses.

In response to this comment, Mitigation Measure 4.6-4(a) on page 4.6-46 of the Draft EIR is revised as follows:

...Any efforts to restore or enhance wetlands located west of Gness Field or in the vicinity of San Rafael Airport would need to avoid creating possible safety concerns that increased activity by birds and other wildlife may have on airport operations. Accordingly, any such projects within 10,000 feet of either airport should demonstrate compliance with FAA guidelines regarding wildlife attractants have to be balanced with the possible safety concerns that increased activity by birds and other wildlife may have on airport operations.

The revision to Mitigation Measure 4.6-4(a) does not affect the analysis or alter any of the conclusions in the EIR, nor does it trigger the thresholds for recirculation as identified in Section 15088.5 of the *CEQA Guidelines*.

A question was raised regarding the need to consult with the Federal Aviation Administration (FAA). Marin County is not required to consult with the FAA pursuant to *CEQA Guidelines* section 15086(a) because the FAA does not meet any of the criteria listed in that section for consultation. It should also be noted that the Draft EIR was distributed to the State Clearinghouse, which is responsible for distributing environmental documents to State agencies. The Draft EIR was distributed to Caltrans. The State Department of Aeronautics is a department of Caltrans.

¹⁴ *Wildlife Hazard Management at Airports, a Manual for Airport Personnel*, Federal Aviation Administration and U.S. Department of Agricultural, July 2005.

St. Vincent's School for Boys

#17

Land Endowment Office

RECEIVED



2007 JUN -8 P 1: 130 Celebrating
Years of Service

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

May 21, 2007

Alex Hinds
Marin County Community Development Agency
3501 Civic Center Drive Room #308
San Rafael, CA 94903

Dear Mr. Hinds:

Attached are the comments concerning St. Vincent's School for Boys made by Fr. Tom Daly before the Planning Commission at the May 14th, 2007 Commission meeting. Please enter the comments letter into the public record.

Thank you.

Sincerely,

Kent Eagleson
Executive Director

Fr. Daly comments at the May 14 Marin County Planning Commission Meeting

My name is Fr. Tom Daly and I am the President of Marin Catholic and Chaplin for the boys who reside at St. Vincent's School for Boys.

I stand before you today incredulous regarding the regressive land use policies that a majority of you voted to support for the lands of St. Vincent's. The recent vote lacks in any sense proportionality, equity or fairness to this special property owner. And I find it difficult to comprehend.

Your actions regarding St. Vincent's exaggerate and assign inflated environmental values, they are enacted on behalf of "fragile habitats" and environmental protection yet they totally dismiss the interests of vulnerable children and a century's old mission of charity. You also disregard the incredible opportunity to develop less than 15% of the St. Vincent's lands that can provide senior and workforce housing while preserving and enhancing the true environmental values of our lands.

I preached this past Sunday to 350 people who attended Catholic mass at St. Vincent's chapel and also to a filled church at the 8:00 mass at St. Patrick's Catholic Church in Larkspur. These parishioners and Marin residents do not understand all of the complicated nuances of land use planning and general plans.

But they do understand equity, fairness and property rights. They understand the lack of equity in public policies that are promulgated under the guise of environmental protection and in the process virtually eliminate any housing opportunities for senior citizens, those who need affordable and workforce housing and our St. Vincent's boys.

I have a great belief in the goodness and decency of people. I assume that you are well intended. However, good intentions often lead to bad results. I believe that this is such an instance. Those of you who voted to enact these policies may not fully understand that in so doing you threaten a mission that has endured for 152 years.

Instead of aspiring to implement land use policies that are balanced, inclusive and serve the broad cross section of our community's needs, your land use focus and agenda has become so narrow and damaging that it puts at-risk the St. Vincent's boys and other critically important community needs.

I just celebrated my 20th anniversary of ordination to the priesthood. All of those 20 years have been spent ministering here in Marin County from the boys at St. Vincent's and students and families at Marin Catholic High School, to parishioners in Novato and West Marin. This much I know about the people of Marin, your actions have awoken an army who will stand up for the St. Vincent's boys, for the institution, for seniors, for affordable and workforce housing and for fairness and social justice.

The crowd who was in this same room with me two weeks ago and many others will see you at the Board of Supervisors in the fall.

**RESPONSE TO LETTER 17 - ST. VINCENT'S SCHOOL FOR BOYS - KENT EAGLESON,
EXECUTIVE DIRECTOR - MAY 21, 2007**

Response to Comment 17 - 1

The commentator stated his support for development of up to 15 percent of the St. Vincent's property. This would allow for development of needed housing, especially workforce and senior housing. The comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

#18

SOUTHERN MARIN BAY ACCESS COALITION

P.O. Box 1186
Tiburon, CA 94920

June 12, 2007

Mr. Alex Hinds
Director, Community Development Agency
3501 Civic Center Drive
San Rafael, CA 94903

Subject: Response to Final Environmental Impact Report, June 2007

Dear Alex:

We have reviewed the Final Environmental Impact Report and agree with the conclusions regarding the Baylands Corridor as they pertain to Strawberry and Paradise Cay. We agree that the Planning Commission Recommendations (pages 843 - 844), which contain all the "grandfathering" language we have mutually hammered out in the last several months, do not have adverse environmental impact and that no additional analysis is required.

We appreciate the thoroughness of the FEIR and the fact that the specific concerns raised in our letters of February 7, 2007 and February 12, 2007 (pages 486 - 487 and pages 489 - 491) received individual responses. We anticipate that all of these concerns will be alleviated by the official adoption of the Planning Commission Recommendations mentioned above.

As this multi-year planning process approaches what we all hope will be its conclusion, we wish to thank the Planning Commissioners and Community Development Agency staff for their tireless effort and dedication over the past several months as they worked on this monumental task. We appreciate the time spent reading our materials and answering our questions. We offer you our sincere thanks.

Sincerely,

Tirrell B. Graham
Director

Robert T. Mott
Director

RESPONSE TO LETTER 18 - SOUTHERN MARIN BAY ACCESS COALITION - TIRRELL B. GRAHAM, DIRECTOR AND ROBERT T. MOTT, DIRECTOR - JUNE 12, 2007

Response to Comment 18 - 1

Comment noted. No additional response is required.

#19

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

omeserve@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4715

TEL: (916) 444-6201
FAX: (916) 444-6209

DANIEL L. CARDOZO
RICHARD T. DRURY
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
MARC D. JOSEPH
OSHA R. MESERVE
SUMA PEESAPATI
GLORIA D. SMITH

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL

June 5, 2007

Via Fax: (415) 499-7880

Ms. Kristin Drumm
Ms. Kris Krasnove
3501 Civic Center Drive, Room #308
San Rafael, CA 94903

Re: Baylands Corridor Policy

Dear Ms. Drumm and Ms. Krasnove:

It is our understanding that the Countywide Plan update will create a Baylands Corridor policy, which is shown by Map 2-5a in the August 2005 Revised Public Review Draft of the Countywide Plan, with amendments as noted in the May 7, 2007 Staff Report to the Marin County Planning Commission ("Commission"). While the Baylands Corridor would include the Redwood Landfill & Recycling Center ("Redwood") site, Redwood would not be subject to the Baylands Corridor policy because landfill and related operations at this developed site pre-date this new policy. This is consistent with our understanding that the purpose of the Baylands Corridor policy is to protect sensitive resources in undeveloped areas. (See Mitigation Measure 4.6-4(a); see, e.g., Marin CWP Update Final EIR (June 4, 2007), at p. 8.0-323).

Redwood operates under a conditional use permit ("CUP") issued by the County. The CUP authorizes the "establishment of a sanitary land fill garbage and rubbish dump" on the 600-acre site. The entire 600-acre site has been developed for the landfill and its ancillary operations. As Redwood's CUP was properly obtained and Redwood has relied upon the CUP by

1710-035d

Ms. Kristin Drumm
Ms. Kris Krasnove
June 5, 2007
Page 2

incurring material expense, vested property rights exist. (See *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530.) Thus, the new Baylands Corridor policy would not apply to operations at the Redwood site.

Redwood's understanding of its vested rights with respect to the new policy is confirmed by the Staff Report submitted to the Commission. On May 7, 2007, County staff informed the Commission, with regard to the Baylands Corridor, that, "[f]or parcels of all sizes, existing lawful uses are grandfathered."¹ The Staff Report further notes that "creation of the Baylands Corridor does not create an additional layer of government review."²

Furthermore, it is important to note that certain foreseeable future operations at the Redwood site will assist with implementation of important County sustainability efforts. For instance, the Mitigated Alternative in Redwood Solid Waste Facilities Permit Revision Final EIR includes a landfill gas to energy project that would capture gas and convert it to electricity, a project that is directly in line with policies of the County's Build Environment Element.³ Similarly, the Mitigated Alternative includes a materials recovery facility to recycle construction and demolition waste. This facility would assist the County's commitment to green building principles.⁴

¹/ Marin County Community Development Agency, Staff Report at p. 3 (May 7, 2007) (available at: www.co.marin.ca.us/depts/cd/main/fm/index.cfm.)

²/ *Id.*

³/ For instance, Goal EN-2 states that the County seeks to "[u]tilize local renewable energy resources and shift imported energy to renewable resources." Policy EN-2.1 states that the County should "[p]reserve opportunities for development of renewable energy resources." Implementing Program EN-2.b states that the County should "adopt measures to protect" renewable resources, including "biogas." Other Implementing Programs seek to offer incentives for alternative energy production and even increase the use of renewable energy, including biogas, in County facilities. (Implementing Programs EN-2.c, EN-2.f.)

⁴/ For instance, Goal EN-3, includes an Implementing Program intended to divert construction waste by "requiring building projects to recycle or reuse a minimum of 50% of unused or leftover materials." (Implementing Program EN-3.c.)

Ms. Kristin Drumm
Ms. Kris Krasnove
June 5, 2007
Page 3

Redwood continues to be strongly committed to providing safe and responsible management of waste materials and the highest quality of service for Marin County. Maintaining and asserting its vested rights to continued operations on this developed site in light of the proposed Baylands Corridor policy is a necessary step to achieving this goal as well as implementing the County's sustainability goals. As in the past, operations at Redwood will continue to be sensitive to and protective of nearby Bayland resources.

Very truly yours,



Osha R. Meserve

ORM:cnh

cc: Tim Haddad
Jessica Jones

RESPONSE TO LETTER 19 - ADAMS BROADWELL JOSEPH & CARDOZO - OSHA R. MESERVE - JUNE 5, 2007

Response to Comment 19 -1

The commentor sets forth his understandings in regard to the relationship of the *CWP Update*, especially the Baylands Corridor policy, and the Redwood Landfill & Recycling Center (Redwood) site. This is the commentor's opinion and not a comment on the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

The commentor does state that the conditional use permit (CUP) issued by Marin County for the Redwood site authorizes the "establishment of a sanitary landfill garbage and rubbish dump" on a 600-acre site. It should be noted that the entire 600 acres have not been developed for landfill and ancillary activities. The site is now comprised of 420 acres for disposal and ancillary activities. Several years ago, 180 acres to the north was sold to the Audubon Society for wetlands restoration.¹⁵

¹⁵ Tim Haddad, Marin County Environmental Planning Coordinator communication with Cynthia Barnard, Marin County Environmental Health Services, June 2007.

#20

Judy Binsacca
9 Tower Point Lane
Tiburon, CA 94920
415/789-9365
binout@sbcglobal.net

RECEIVED

JUN 12 2007

County of Marin Community Development
Planning Division

June 9, 2007

Community Development Agency
County of Marin
3501 Civic Center Dr. Room 308
San Rafael, CA 94903

RE: FEIR: My response to the staff response to my Letter 62, dated 2/12/07

The "master response" talks about the need for a Baylands Corridor to protect baylands and adjacent uplands along San Pablo Bay without showing any proof that they aren't protected sufficiently by the Bayfront Conservation Zone. To include "roosting and nesting" as activities that need extra protection, for example, puts an intolerable and unproven burden on the St. Vincent's/Silveira properties that has no scientific legitimacy.

The term "sensitive natural communities" is now being used instead of the traditional "endangered" or "special-status" communities to justify Option 2 of the Baylands Corridor because the staff has failed to provide any evidence that the latter communities actively exist on the sites. Again it is a transparent attempt to add new, unjustified environmental burdens to the sites such as the "interrelationship of scattered biological and wetland features", a term so vague that it can mean whatever the authors want it to mean.

All legitimate protections were provided on these properties by the 2000 St. Vincent/Silveira Advisory Task Force recommendations.

The 1999 Habitat Goals Report, cited appropriately by the staff as the primary baylands-protection document, sets the boundary for sensitive sites at St. Vincent/Silveira along the historic baylands line, roughly along the railroad track. That boundary justifies adoption of Baylands Corridor options 1 or 3. It in no way justifies Option 2. And nothing cited in the FEIR legitimately justifies Option 2.

Sincerely,


Judy Binsacca

RESPONSE TO LETTER 20 - JUDY BINSACCA - JUNE 9, 2007

Response to Comment 20 - 1

As discussed in Response to Comment 62-1 in the *Final EIR Response to Comments*, sensitive biological resources include occurrences of special-status species, sensitive natural communities, and wetlands, among other important features. The Draft EIR and *CWP Update* are not substituting one resource for another, as incorrectly suggested by the commentor to justify Option 2 of the Baylands Corridor. As indicated in the discussion on page 4.6-44 of the Draft EIR, under Option 2 of the Baylands Corridor, greater attention would be given to the interrelationship of the scattered biological and wetland features. Mitigation Measure 4.6-4 would call for expanding the proposed Baylands Corridor on the St. Vincent's and Silveira properties to provide for greater consideration of the interrelationship of these features to the larger baylands ecosystem, provide an adequate setback from areas qualifying for protection under the Stream Conservation Area and Wetland Conservation Area policies, and to ensure protection of essential linkages between areas of permanently protected habitat.

#21

June 15, 2007

RECEIVED

2007 JUN 18 P 1:45

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Mr. Alex Hinds, Director
Marin County Community Development Agency
Room 308
3501 Civic Center Drive
San Rafael, CA 94903

Dear Mr. Hinds:

We are residents of Tam Valley and we oppose the proposed changes to the zoning and land use categories for Tam Junction.

We are appalled especially that these changes are being considered after this community worked so hard to successfully express our objections over the HOD proposal in the Countywide Plan. Having achieved what we considered to be a victory and now learn of another approach is misguided and a failure to recognize the wishes of the Tam Valley voters.

As you know, the County Planning Commission's Environmental Impact Report described objections which deemed Tam Junction unsafe for residential development. It is baffling to then consider another avenue to achieve an ill conceived plan.

Until the infrastructure modifications are in place and the environmental impact issues nonexistent, we will continue to oppose development in Tam Junction area.

Sincerely,


Jack Camilleri
406 Tennessee Glen Way
Mill Valley, CA. 94941

Sincerely,


Phyllis A Gardner
406 Tennessee Glen Way
Mill Valley, CA 94941

RESPONSE TO LETTER 21 - JACK CAMILLERI AND PHYLLIS GARDNER - JUNE 15, 2007

Response to Comment 21 - 1

Commentors oppose the proposed changes to the zoning and land use categories for Tam Junction. The comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

#22

3312 Paradise Drive
Tiburon, CA 94920

June 18, 2007

Marin County Planning Commission
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

VIA FACSIMILE

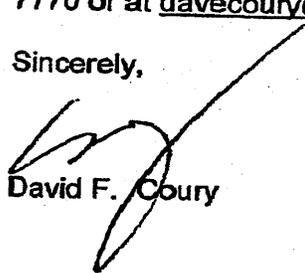
Re: Comments on Final Environmental Impact Report, Revised Draft 2005 Marin Countywide Plan

Dear Planning Commissioners:

Unfortunately, the Response to Comments submitted for the Final Environmental Impact Report (FEIR) do not adequately address the comments from various parties, including the Housing Leadership Alliance for Marin, the Marin Environmental Housing Dialogue, The League of Women Voters, the Transportation Solutions Defense and Education Fund, Judy Binsacca, Todd Smith, myself, and others. Many of the issues raised have not been directly addressed. Quantitative analysis is missing. The incomplete and inaccurate analysis of the traffic, water, and other impacts of the Draft 2005 Marin Countywide Plan leaves the FEIR inadequate.

If you have any questions or comments, please don't hesitate to contact me at 415 717 7770 or at davecoury@yahoo.com.

Sincerely,


David F. Coury

RESPONSE TO LETTER 22 - DAVID COURY - JUNE 18, 2007

Response to Comment 22 - 1

The commentor states that the *Final EIR Response to Comments* does not adequately address the comments from various parties. Because the commentor did not provide specific examples of his concerns no response is possible.

#23

CSW | ST2

CSW/Stuber-Stroeh Engineering Group, Inc.

45 Leveroni Court
Novato, CA 94949
www.cswst2.com

415.883.9850
Fax 415.883.9835

Novato
Pelaluma
Sacramento

Engineers | Land Planners | Surveyors | Landscape Architects

RECEIVED

2007 JUN 18 10:40

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Date: June 18, 2007

File: 1.698.04

Via Hand Delivery

Alex Hinds, Director
Community Development Agency
County of Marin
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

**RE: SAN RAFAEL ROCK QUARRY: RECLAMATION PLAN
BAYLANDS MAPPING FOR COUNTY WIDE PLAN**

Dear Mr. Hinds:

In July, 2004 we met with your staff to discuss discrepancies in the proposed baylands corridor depiction of the property owned by the Dutra Group and referred to in the General Plan update as the San Rafael Rock Quarry. At that time we pointed out that there were significant inaccuracies in the manner that the baylands corridor was shown with respect to the Quarry property. These inaccuracies were a result of showing the baylands corridor over property that was not part of the bay and, in fact included property that was part of the present plant operations and at elevations significantly (20 feet) above sea level and not subject to any inundation from bay tidal action.

Your staff assured us that the inaccuracies would be corrected when the maps were revised. We received a copy of the maps yesterday and found that while the inaccuracies along the south side of the property had been corrected, the extent of the marsh along San Pedro Road continues to be grossly overstated. Kristin Drumm kindly forwarded a copy of the aerial photo of the Rock Quarry property with the revised bayland corridor shown.

Even a cursory review of this exhibit (attached for your convenience) shows that the baylands corridor extends beyond the marsh to the east into an upland hillside and on the south and west into the operations of the McNear Brick Company which has occupied the site since the mid-1800's. Further more, the access road to the Quarry and the Brick Company is included in the baylands corridor instead of being shown as a strip separating the marsh (bayland) areas.

CSW | ST 2

Alex Hinds, Director

Community Development Agency/County of Marin

June 18, 2006

Page 2

In order for the EIR and general plan to accurately reflect bayland conditions, it is imperative for the County to correct this so that the final documents accurately reflect true physical conditions.

We welcome the opportunity to work with your mapping staff to correct these inaccuracies. We look forward to the County correcting the documents before final publication and adoption. Please call if you have any questions or if we can provide additional information or assistance.

Sincerely,

CSW/STUBER-STROEH ENGINEERING GROUP, INC.



Al Cornwell

AC:lb

cc: Aimi Dutra, Dutra Materials
Kristen Drumm, Community Development, Marin County

**RESPONSE TO LETTER 23 - CSW / STUBER-STROEH ENGINEERING GROUP, INC. - AL
CORNWELL - JUNE 18, 2007**

Response to Comment 23 - 1

In response to the commentor's cited "discrepancies" in the proposed Baylands Corridor depiction of the property owned by the Dutra Group (San Rafael Rock Quarry) Marin Community Development Agency staff reviewed several maps.

Based on this review, it has been concluded that on the western portion of the San Rafael Rock Quarry property, the Baylands Corridor boundary is based on the San Francisco Estuary Institute (SFEI) boundary. Under no circumstances does the Baylands Corridor extend beyond the 50-foot contour line, except for a few segments along the southwestern segment of the property where the 300-foot buffer is included. The Baylands Corridor does not extend beyond the marsh to the east into the upland hillside (based on the 50-foot contour intervals). However, it does extend southward into the operations area of the McNear Brick Company, based upon the SFEI boundary. In addition, the road access to the quarry and brick company is included in the Baylands Corridor. This road bisects the marsh area and is also included within the SFEI boundary.

The Baylands Corridor boundary recommended by the Planning Commission on the quarry property has not changed and remains consistent to what was shown under Option 2 as proposed in the *Draft 2005 CWP Update*.

#24

Marita M. Daly
385 Woodland Rd.
Kentfield, CA 94904
June 12, 2007

RECEIVED

2007 JUN 13 A 10:48

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Marin County Board of Supervisors
Marin County Planning Commission
Marin County Community Development Agency
3501 Civic Center Drive
San Rafael, California 94903

Re: Countywide Plan and EIR

Dear Marin County Supervisors and Commissioner,

I am writing to urge the Planning Commission and the Board of Supervisors to refer the proposed Countywide Plan and the accompanying EIR back to the Community Development Agency for further revision. The overriding theme of the Plan was to promote sustainability in Marin. Instead, the Plan would cause numerous significant IRREVERSIBLE impacts that cannot be mitigated. The admirable goal of increasing low income housing in Marin can be accomplished in a responsible, comprehensive way that includes a County-wide traffic improvement plan and measures to assure the continued high quality of public services. The Countywide Plan does not accomplish this and needs further revision to reduce its many negative impacts to an acceptable level.

The Negative, Unmitigatable Impacts of the Plan Affect the Entire County

The Countywide Plan, including mitigated Alternative 4, simply makes poor sense for Marin for numerous political, economic, social and environmental reasons. A few of these negative, irreversible impacts include:

- The Plan would cause 42 significant unavoidable impacts. CWP Update DEIR p. 2.0-53. These impacts cannot be mitigated.
- The Plan would cause unacceptable level of service in 18 transportation areas of the County. These impacts cannot be mitigated.
- The Plan would cause an increase in the number of transit trips compared to the no-project alternative.
- The Plan would cause unavoidable traffic impacts in Tam Valley, Strawberry, Kentfield, the San Rafael Rock Quarry area and the St. Vincent's/Marinwood areas.
- The Plan would increase greenhouse gas emissions and air pollution and is inconsistent with the Clean Air Plan. CWP Update DEIR p. 2.0-49.
- The Plan causes unavoidable impacts on water supply in a county which already has inadequate water supply. CWP Update DEIR p. 2.0-54.
- The Plan would increase the demand for, and require new facilities for, public services and utilities, including wastewater treatment, fire

protection, emergency services, public schools and parks. CWP Update DEIR p. 2.0-49

- For those impacts that can be mitigated, many of the mitigation measures are not funded or designed as part of the Plan. For this reason, the EIR concludes that many of the identified mitigation measures are unlikely to ever be implemented. CWP Update DEIR p. 2.0-53.

The negative impacts of the Plan far outweigh the housing benefits. Even mitigated Alternative 4 would have consequences that are far worse than the shortage of housing that the Plan attempts to address. There are no findings of overriding consideration the County could adopt that would justify the number and severity of significant unavoidable impacts.

The dramatic aggravation of traffic throughout the County is reason alone to reject the Plan. One example is the increased traffic along Sir Francis Drake Boulevard. Sir Francis Drake Blvd. was built to provide for 15-20,000 car trips per day—it is currently carrying as many as 50,000 cars per day. The current level of service is simply unacceptable and no additional traffic should be tolerated. Yet, the proposed 270 housing units in Kentfield will further snarl this important thoroughfare, affecting Fairfax, San Anselmo, Ross, Kentfield and Greenbrae. Housing located along Bon Air Rd. would further exacerbate travel along Magnolia, compounding the traffic problem in Larkspur and Corte Madera as well. Any Countywide Plan should improve the current traffic problems rather than adding more traffic to these cities.

The EIR Defines the Work Still Needed to Meaningfully Reduce Traffic in Marin

Importantly, the Plan does not consider important measures that could reduce traffic in our already congested County. The EIR states that traffic improvement would require additional work not undertaken by the Plan or EIR. This would require

focusing a larger percentage of future development into denser, transit-oriented developments, a significant investment in improving alternate modes of transport, significant incentives for using alternative modes of transport, and significant disincentives for traveling by single occupant auto." Marin CWP Update Draft EIR p. 2.0-53.

This is the most important statement in the EIR: *On its face, the EIR admits that the Plan does not go far enough to consider traffic improvements or to further its stated primary goal to promote sustainability.* This is a violation of CEQA. The EIR cannot conclude that traffic impacts cannot be mitigated without addressing these additional measures. Countywide Plan needs to address these traffic measures concurrently with its housing proposal. The two are inextricably linked and the County needs to find an integrated solution, rather than creating a traffic problem that may never be addressed.

The Plan Would Damage the Quality of Public Services in Marin

It is also crucial to recognize that some of the most alarming impacts are given very little attention in the EIR. The EIR identifies numerous impacts on utilities and public services. However, there is little discussion of how these impacts would change life in Marin. The Plan does not provide any funding or designs for improving utilities or public services to accommodate the growth fostered by the Plan. CWP Update DEIR p.2.0-53. This will result in a decline in the quality of public services in Marin. A better approach is required. The County should develop a plan that will address all these issues concurrently. We should not develop additional housing at the expense of public services.

One disconcerting example is the effect of the Plan on public schools. For example, the Kentfield School District is currently at capacity. The Plan does not provide any funding for enlarging school facilities to accommodate the children who will live in the 270 proposed housing units in Kentfield. California is among the lowest in education spending in the country. It is irresponsible to plan for more housing without providing the funding for larger school facilities. The Superintendent of the Kentfield School District has written the Planning Commission to strenuously object to the current version of the Plan for these reasons. The Plan requires further change in scope and additional mitigation to ensure that the quality of public services will not be compromised.

If we are to further the important goal of providing low income housing in this County, let's do that job well. That means designing a plan that will comprehensively address housing, the horrendous traffic in Marin, and quality public services. I urge you to vote against the Plan as it stands and to refer it for revisions that will further the stated goal of sustainability, and that will not result in reduced levels of public services.

Sincerely,

Marita M. Daly

RESPONSE TO LETTER 24 - MARITA M. DALY - JUNE 12, 2007

Response to Comment 24 - 1

The commentor expresses concern regarding the environmental impacts of the *CWP Update*. Furthermore, the commentor states that the negative aspects of *CWP Update* far outweigh the benefits.

The commentor's opinion is noted. No further response is required.

#25

FARELLA BRAUN + MARTEL LLP

Attorneys At Law

Russ Building / 235 Montgomery Street
San Francisco / CA 94104

T 415.954.4400 / F 415.954.4480
www.fbm.com

CHRISTOPHER LOCKE
clocke@fbm.com
D 415.954.4486

RECEIVED
2007 JUN 19 P 4:08
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 18, 2007

VIA FACSIMILE
(Original Mailed)

Marin County Planning Commission
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

Re: Comments on the Final Environmental Impact Report for the Marin Countywide
Plan Update

Dear Commissioners:

I am writing on behalf of the San Rafael Rock Quarry, Inc., The Dutra Group and Dutra Materials (Dutra), to comment on the Final Environmental Impact Report (FEIR) on the Countywide Plan Update.

There are two sections of the FEIR which discuss second use development scenarios for the San Rafael Rock Quarry site. In responses to comments submitted by the St. Vincent's School for Boys (#56) and by Wade B. Holland (#23), the County states that the Quarry site was not considered part of the Housing Overlay Designation (HOD) for purposes of the land use scenarios analyzed in the DEIR, and that there is no relationship between the development projected at the Quarry and at the St. Vincent's and Silveira properties. However, the County also goes on to state that proposed amendments to the Countywide Plan would limit development at the Quarry to 75 housing units.

For the reasons stated in Dutra's April 23, 2007 comments on the staff recommendation for Countywide Plan amendments on the same subject, which comments are incorporated herein by this reference, adoption of language purporting to limit second use development to 75 residential units is inappropriate. It is equally inappropriate for the FEIR, which should focus on the environmental impacts of the draft plan analyzed in the DEIR, which considers up to 350 residential units for land use scenarios 2 and 3, as well as a range of development alternatives, to suggest that development of up to 350 units is no longer an option.

The proposed change to Policy PA-3.2 and to Policy CD-2.3 suggest that a limitation on the number of housing units at the Quarry is necessary because of the traffic impacts of greater residential development at the site. However, for the reasons previously set forth, this

19605\1276244.1



Marin County Planning Commission
June 18, 2007
Page 2

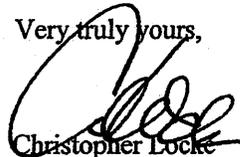
conclusion is not based upon a credible analysis of the traffic impacts from the Quarry site and surrounding neighborhoods, nor does it properly take into account development alternatives that would reduce projected traffic flows.

Furthermore, the FEIR fails to acknowledge that the Quarry's Amended Reclamation Plan of 2004 (ARP04) contemplates second use development of "up to 350 residential units," subject to approval of a Final Development Plan to be submitted to the City of San Rafael following annexation, and at least three years prior to cessation of mining activities. ARP04 is the subject of ongoing administrative review by the Department of Public Works, as Lead Agency, and will be the subject of hearings before the Board of Supervisors. Mining activities are proposed to continue for 17 years following approval of ARP04. The second use development and density proposed in ARP04 is carried over unchanged from that which was approved by the County in SRRQ's Amended Reclamation Plan of 1982 (ARP82), the currently operative reclamation plan for the Quarry.

Thus, it is premature, inappropriate and unnecessary for the FEIR to suggest further limitations on second use development based on traffic at this time. Rather, it is more appropriate to leave the current County-approved range of up to 350 units in place, and defer the final decision until the Final Development Plan is submitted for review and approval many years from now, when a more accurate and current analysis can be done based on then-existing traffic conditions.

Accordingly, Dutra objects to the FEIR's suggestion of further limitations on second use development based on traffic at this time, and requests that the FEIR recognize potential second use development to include up to 350 residential units, as stated in ARP82, subject to further review at the time of submittal of the Final Development Plan.

Very truly yours,



Christopher Locke

cc: Alex Hinds, Marin Community Development Agency
Kristin Drumm, Community Development Agency
Aimi Dutra Krause, The Dutra Group
Al Cornwell, CSWS2

RESPONSE TO LETTER 25 - FARELLA BRAUN + MARTEL - CHRISTOPHER LOCKE - JUNE 18, 2007

Response to Comment 25 - 1

The commentor expresses concern with the second use development scenarios for the San Rafael Rock Quarry site. The Final EIR recognizes potential second use development of up to 350 housing units. As discussed in *Chapter 3.0 Description of the Proposed Project*, the *Draft 2005 CWP Update* land use scenarios assumed varying degrees of second use development at the San Rafael Rock Quarry. Option 1 considered zero housing units while Options 2 and 3 considered 350 housing units. *Alternative 4 (Mitigated Alternative)* assumed a range of housing units (75 to 350 housing units) for future development at the San Rafael Rock Quarry. Therefore, the Final EIR does consider a range of housing units (0 to 350) at the San Rafael Rock Quarry after quarrying is completed. The traffic analysis was prepared using Marin County's Travel Model for the *Draft 2005 CWP Update* and each of the alternatives. The travel model results for the *Draft 2005 CWP Update* Scenarios 1, 2, and 3 can be used to estimate the potential impact of the 350 housing units because Scenarios 2 and 3 assumed 350 housing units would occur at the quarry while scenario 1 assumed zero.

The application for an amended Reclamation Plan at the Quarry¹⁶ is discussed on pages 5.0-63 and 5.0-64 of the Draft EIR. It is stated on page 5.0-64 of the Draft EIR that the amended Reclamation Plan proposes as many as 350 housing units with 3,500 vehicle trips per day as the second use for the site. The Draft EIR also states that both the current and proposed Reclamation Plan provide that:

Residential densities will need to be responsive to traffic impacts they will impose and land use studies will be submitted as quarrying on the property nears completion to fully analyze that problem in relation to a development plan that will be designed to fit the market demands and local objectives of that time. It is impossible to make more detailed predictions at this time (approximately ten to 12 years before the earliest development is likely to take place).¹⁷

It is also acknowledged that the amended quarry permit and amended Reclamation Plan propose cessation of mining and development of second uses beginning 17 years from approval of the proposed amended Reclamation Plan. Assuming approval in 2007, this means the quarry would cease operation in 2024.

The commentor is correct that the Planning Commission has recommend a revision to Policy **PA-3.2** (*Designate Land Use in Point San Pedro*) to state that, in order to not exceed current traffic levels, the total number of housing units, or their equivalent in commercial or other uses, shall not exceed 75 housing units. Should the quarry eventually be annexed into the City of San Rafael, the City could choose to consider development at higher densities.

¹⁶ *San Rafael Rock Quarry Amended Reclamation Plan 2004*, October 12, 2004.

¹⁷ *San Rafael Rock Quarry Amended Reclamation Plan 2004*, October 12, 2004.

LSA

LSA ASSOCIATES, INC.
157 PARK PLACE
PT. RICHMOND, CALIFORNIA 94801

510.236.6810 TEL
510.236.3480 FAX

OTHER OFFICES:
BERKELEY
IRVINE

RIVERSIDE
ROCKLIN

#26

RECEIVED

2007 JUN 18 P 1:45

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 14, 2007

Tim Haddad
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Subject: Final Environmental Impact Report
Marin County Draft 2005 Countywide Plan Update

Dear Mr. Haddad:

The County recently released a Notice of Availability and Notice of Public Hearing on the Final Environmental Impact Report for the Marin County Draft 2005 Countywide Plan Update. This notice indicates that there is a 14 day public review period for the FEIR and written comments on the adequacy of the FEIR responses must be submitted to the Community Development Agency no later than June 18, 2007.

The purpose of this letter is to notify you that I intend to submit written comments on the adequacy of the FEIR responses to a letter (#96) that I submitted commenting on portions of the DEIR which addressed the St. Vincents property. Due to the short period of time provided I will be unable to meet the June 18 deadline but intend to submit these comments in the following week.

Thank you in advance for your consideration of these comments.

Sincerely,

LSA ASSOCIATES, INC.

Malcolm J. Sproul

Malcolm J. Sproul
Principal

cc: Jim Stark
Steve Grant

RESPONSE TO LETTER 26 - LSA ASSOCIATES - MALCOLM J. SPROUL - JUNE 14, 2007

Response to Comment 26 - 1

The commentor states that he was unable to submit comments by the deadline but would be submitting comments after the close of the comment period.

See Response to Comment 4 -1, above, regarding the 14-day comment period.

#27

Cela O'Connor
P.O. Box 116
Bolin, CA 94924

June 18, 2007

Planning Commission
3501 Civic Center Drive, Room 308
San Rafael, CA, 94903-4157
Kristin Drumm, Planner

RE: FINAL EIR MARIN COUNTY WIDE PLAN UPDATE COMMENT

Dear Members of the Planning Commission,

Program BIO-4m (Page 8.0-771) Would continue to allow agricultural activity land uses within the SCA that are inconsistent with Policy BIO-4-1 that states: "Limit land uses in a designated Stream Conservation Area to those that create minimal disturbance or alteration to water, soils, vegetation, and wildlife and that maintain or improve stream function or habitat values." Under this program the county has no enforcement power to regulate removal of riparian vegetation within the SCA by livestock or other agricultural activity such plowing.

Program BIO-4n (Page 8.0-771) Under this program the county has no enforcement power to regulate the removal of riparian vegetation for agricultural activities because there is no development permit requirement generally for agricultural activities in the SCA..

Program BIO -4a (Page 8.0-775) The conventional zoning strike out should be left in and planned districts added to the language of the program. This program should be stretched to include all SCA's, not just those parcels identified. The EIR failed to evaluate the riparian habitat resource for the Red Legged Frog and further identify other listed species that depend on riparian corridors/streams for their survival, and to develop the necessary mitigations to limit development impacts.

Policy BIO-4.1 (Page 8.0-780) For parcels less than .5 acres in size....the word woody preceding riparian should be struck out here and on (Page 8.0-781) All riparian vegetation should be conserved.

Program BIO-4.i (Page 8.0-782) The word native which is underlined should be replaced with the word natural.

Policy BIO-4.17 and Program BIO-4s (Page 8.0-806) While this approach is noteworthy it carries no enforcement power to preserve and protect the SCA from certain harmful agricultural activities.

These suggestions are made with the intent of influencing the decisionmakers to take a more protective attitude towards conserving and restoring streams and riparian corridors in Marin County while we still can.

Thank you again for the opportunity to comment, sincerely,

Cela O'Connor



RESPONSE TO LETTER 27 - CELA O'CONNOR - JUNE 18, 2007

Response to Comment 27 - 1

The commentor provided suggested revisions to several of the biological resources programs. These comments focus on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

Regarding Program **BIO-4a**, the revisions were made to actually broaden the application of the SCA for all parcels, not simply those “subject to conventional zoning designations”, thereby providing greater resource protection. The Draft EIR acknowledges California red-legged frog as a species of particular concern on page 4.6-16, and lists this species in **Exhibit 4.6-3**. *Impact 4.6-1* analyzes potential impacts to special-status species, although California red-legged frog and other aquatic dependent species are not specifically addressed because of the over 150 special-status species known or suspected from Marin County. Policies and programs developed to protect streams and wetlands would serve to preserve essential habitat for California red-legged frog and other aquatic-dependent species. Additional policies and programs specifically address special-status species, including Policies **BIO-1.1**, **BIO-2.1**, **BIO-2.3**, **BIO-2.9**, **BIO-2.10**, and Program **BIO-2.a**, **BIO-2.c**, and **BIO-2.d**.

#28

Haddad, Timothy

From: jromm@ltdengineering.com
Sent: Monday, June 18, 2007 2:34 PM
To: Drumm, Kristin
Cc: Haddad, Timothy
Subject: CWP FEIR Responses to Comments

I appreciate the opportunity to make the following response to the FEIR.

Responses regarding comments on the Water Section submitted by Jerri Romm – Letter 94: pp. 8.0-697 tot 8.0-703 are inadequate. They are also internally inconsistent.
I would like to respectfully request a recirculation of the report and an extension of the review period.

Sincerely,

Jerri Romm

546 Scenic Avenue
San Anselmo, CA 94960
jromm@ltdengineering.com

6/19/2007

RESPONSE TO LETTER 28 - JERRI ROMM - JUNE 18, 2007

Response to Comment 28 - 1

The commentor states that the *Final EIR Response to Comments* responses to letter 94 are inadequate and internally inconsistent. Because the commentor did not provide specific examples of her concerns no response is possible.

Planning Commission (6/11/07)

RE: FEIR

"Response to ALL the comments received during the 60 day public review period for the DEIR are included in the FEIR" ! Not true. Ours and perhaps others were censored out.

One size fits all approach, painting large sections of the county with a broad brush and then requiring smaller sections to comply has impacts which have not been reflected in review process such as condemning developers and residents to legal expense and the endless process of debating what is allowed as relates to what can and should be done. We have already witnessed almost 40 years of that in Tam Valley! This is a very significant impact on residents that could be mitigated by more area appropriate planning not constrained by broader countywide regulations.

MAPS: Still no clear inclusion of requirement of updated maps to guide plan. Simply saying "to post and disseminate information when available" does not connote responsibility to obtain knowledge before proceeding.

MITIGATION: "To the extent feasible" and "no net demand" are totally inadequate to compensate for significant, unmitigable, cumulative adverse impacts. It is deceptive to suggest that these can make a project acceptable.

WATER: Plan should be focusing on creating a net decrease below deficit level not promotion of development via "no net increase" which is difficult to verify and still leaves us with insufficient supply and more severe restrictions required for all residents should conditions worsen and assumptions not prove valid from measures applied. "Offset of new water demand" is especially inadequate under drought conditions.

TRAFFIC: With enhanced transit services not currently planned or funded we can't assume implementation at a level to reduce impacts to less than significant, i.e. transit-oriented development. Development based on reduction of traffic 'to the extent feasible' is potentially allowing development because mitigation is not feasible. How does this address impact successfully?

FLOODPLAIN: Inconsistency regarding appropriate recommendation to not allow housing in a floodplain, i.e. not HOD houses but okay for Mixed-Use housing. If decision is based on public health and safety why are all future residents not equally protected? To regulate improvements in flood and inundated areas so that they will "resist" rather than "withstand" damage certainly reduces the expectations to a conveniently buildable level. (Big difference between water resistant and waterproof watch when you go swimming!)

BCDC: Why were policies of BCDC for areas subject to sea level rise selectively applied? There is reference to "revised construction standards to ensure consistency with BCDC's sea level rise planning" however BCDC's own statement specifically says that government agencies "should assure that new structures and uses attracting people are NOT approved in flood prone areas or in areas that will become flood prone in the future". This does not suggest that we should simply be sure to build a strong building as a potential island in the middle of the sea!

AFFORDABLE NEEDS: The needs of people should have been considered separately from housing development so that a full range of alternatives which directly support people could have been developed. Instead their needs were used to promote the thrust for more market-rate housing which will primarily benefit property managers and the developers and future residents without affordable housing needs.

The FEIR does not (as it states) adequately consider future development in the Countywide Plan or the effects of its implementation. It allows for development with too many significant, unavoidable, cumulative adverse impacts and does not adequately consider (reflect) the needs and desires of the communities within its scope. The limits to growth should have been considered based on the known impacts of growth but instead the Plan seems to be driven by development objectives. The policy guidelines do not adequately address the changed conditions in the county or sustainably plan toward stated goals and therefore should not be certified.

Ann and Gene Spake

June 11, 2007

Copy to Alex Ehinds, Project Director
Spake

To: Marin County Planning Commissioners
Re: the DEIR and the CWP

RECEIVED

March 10, 2007

2007 MAR 12 P 2:06

The current weight of evidence points to the necessity to develop a plan that suits today's conditions and tomorrow's assaults. There is no economic need for a significant increase in commercial development at the Junction which currently meets our everyday shopping needs, as does shopping centers in Corte Madera, Strawberry, Mill Valley (Downtown, Miller Ave. and Blithedale) and Marin City within 5 minutes of Tam Valley. Additionally, local shopping in our semi-rural community was intended to preclude drawing regional shopping traffic. We maintain that additional housing in this area will strain local resources and exacerbate traffic and parking problems. We submit that several key base documents in the new Plan are contradicted by the expressed goals of the Countywide General Plan as applied in the Tam Planning Area.

1. Map 2-11 Liquefaction Susceptibility Hazards are not correct. According to data from the Walgreen development at the Junction area and according to records from the proposed Tam Gateway Redevelopment Project in the 1970's, bay mud ranges from 50 to 80 feet deep in the area of Bell Market (now Delano's), Walgreens and nearby parcels. So available records contradict the Knudson, et al map, which indicates no hazards of liquefaction based on soil's composition. The map focuses on current water marsh areas as having the highest risk, yet the 1989 liquefaction in the San Francisco Marina occurred under homes built on long buried bay mud.
2. Map 2-9 Seismic Shaking regarding location of soil type D and possible E is not properly identified in the Tam Valley floor. The entire valley floor is known to consist of bay mud with fill over it. Richardson Bay extended as far as Poplar Street in the 19th century and as late as the 1950's was marshland throughout the valley before it was filled and developed with current housing. Tam Valley and the Junction area lie in as close proximity to major earthquake faults as does the Marina area of San Francisco or elsewhere in the Bay Area. That flat land area is vulnerable to seismic shaking so your source is contradicted by known historical documents.
3. Map 2-12 Flooding shows areas of expected 100 year floods. We drive through flooded streets every year and Tam Valley is in a flood zone, suffers frequent floods and insurance companies demand flood coverage. The Flood Control District has installed four pump stations to help but flooding still occurs. The plan ignores the fact that the area is a flood plain.
4. The Bayfront Conservation Zone should include that part of Coyote Creek that runs from the end of the Martin Triangle at Richardson Bay to the bridge at Flamingo street. This waterway rises and falls with the tidal action, is utilized by herons, egrets, clapper rails, and ducks and is in close proximity to a now empty parcel that is situated behind Video Droid in the shopping area. You should use

the Cowardin definition (the national standard) of wetlands which would protect this valuable wetland ; the Corps definition for wetland might also apply here. By not extending the BCZ in this sensitive natural habitat you avoid implementing your own stated desire to protect such natural features.

5. Your stated goal to support a sustainable Marin County is undermined by the HOD proposed for the Tam Planning Area. Traffic is already at "F" and water supply is maxed out. Current sewage service to the housing units in Tam Valley flats known as Kay Park are having to be redone (cost \$700,000 for first phase) because of sinking bay mud referred to in point 2 above.
6. The attempt to supply "workforce housing" for people who can't afford the market rents is laudable in intent but totally inadequate. The Plan indicates that there are tens of thousands of workers (48,000) driving in to work here because they can not afford the rents and house prices, but a token hundred or so would not put a dent in that reality. The HOD would use a few "feel good" token low income units to ramp up development of more unsustainable market rate units. We cannot avoid the fact that more population in this restricted and risky area will have its own demands for more water, transportation and other infrastructure.
7. The Plan asserts the need to lessen automobile uses and the accompanying CO2 emissions, yet it assumes that the new housing planned will not bring more cars! There is no legal way to ensure that low income or very low income people who move into those units will not drive cars, nor is there any way to say that these residents will not take advantage of the low rent housing yet still drive into San Francisco to work. Are we supposed to provide low cost housing for San Francisco?
8. It is important to consider the fact that in Marin County, not only is housing not affordable, but also the general cost of living here is too expensive for people of low income. The lack of cheap public transit almost demands car ownership (How else would this workforce get to work?). The facts now are that bus service is being cut back and proposals for jitneys and other means of public transport that may reduce reliance on the automobile in the future are still at the dream stage. The other generally higher costs in this county for goods and services, do not make life affordable for people of modest means with little disposable income whether or not the rent is low.

We conclude that the proposed HOD for the Tam Planning Area is unsustainable and therefore contradicts the Plan's expressed goal of creating a more sustainable Marin. The same reason to reject the HOD for the area applies to the proposed change of parcel designations on the east side of Shoreline Highway from RS to NC with a higher FAR and more housing, as well as a projected increase in density on the west side at the shopping center area. This increased allowable density not only flies in the face of environmental realities (traffic, available water from MMWD, sea rise, liquefaction, etc.) but is also of questionable legality as a gift of public funds, given the expressed desire of

the County (and indeed desire of the local community for over 25 years) to purchase the Martin Triangle, since an increase in density for that parcel will increase its purchase value.

Further, the CWP and the DEIR appears to accept "Growth" as a given. "Growth" is the mantra of our political/economic system and has been anointed by many as the sine quo non of human progress. Yet, if we can learn anything from those who study and analyze the world's emerging environmental problems, it is "Growth" that is endangering sustainable life on earth, in terms of both population growth, as such, and supplying goods to serve the perceived needs of that population. (For an overview of this perspective we recommend two books that many of you are probably familiar with, *Limits to Growth* by Meadows and Randers and *Collapse* by Jared Diamond.) So every conceivable indicator—global warming, rising tides, availability of mineral resources, water and air degradation, point to the urgent need to slow and stop growth. Bringing this concept to bear on the local scene: Why plan to promote more growth? If Marin County really intends to be a pace maker in the area of sustainability, then any responsible County Plan would promote, if not a decrease in population, then certainly a stop to encouraging growth of residences and commercial enterprises in our County that would by their very existence negatively impact our environmental resources.

We ask that the Planning Commission reject the HOD for the Tam Planning area and that you reject any change in land use designation that promotes more dense development of the parcels in the Junction area on both sides of the highway. Recognizing the environmental safety and health hazards mentioned above would be enough to reject the current plan to increase density in the Area. When the predicted sea level rise was introduced at the Hearing, the reaction was to dismiss that element of risk because it was in "the future that no one can predict"; we need to apply the Precautionary Principle to this issue (the precautionary principle is urged in the CWP as something every department should utilize). Although we may not be able to forecast exactly how much and when this sea level rise will occur, the consequence of it's predicted occurrence would be serious in terms of public safety and health hazards. Applying this principle in the current county planning process would mean not overloading an already stressed community and threatened natural environment at and near Tam Junction. Increasing density and then supposedly "mitigating it" by relying on construction techniques and elevated buildings to somehow withstand floods, high tides, earthquakes and rising sea levels is not choosing the safest, smartest precautionary direction for planning. If the Tam Planning Area is the only location you can identify for intense development, we submit that this County is at the limits to growth.

Respectfully submitted,

Ann and Gene Spake

Ann Spake Gene Spake (espake@calrc2.com)

Cc Alex Hines and the County Board of Supervisors

*Ann & Gene Spake
392 Richmond Way
Mill Valley, Ca 94941*

RESPONSE TO LETTER 29 - ANN AND GENE SPAKE - JUNE 11, 2007

Response to Comment 29 - 1

The commentor expressed concern that her and her husband's letter dated March 10, 2007 was not included in the *Final EIR Response to Comments*. A copy of the March 10, 2007 letter is included in this *Amendment*.

During the concurrent public review of the Draft EIR and the *Draft 2005 CWP Update* the Marin County Community Development Agency (CDA) received a substantial number of comment letters. Each comment letter was reviewed by CDA staff to determine if it was a Draft EIR comment letter or a *CWP Update* comment letter. Letters that focused on the adequacy and completeness of the EIR were determined to be Draft EIR comment letters and included in the *Final EIR Responses to Comments*. All other letters were determined to be *CWP Update* comment letters and were considered as a part of the Planning Commission deliberations on the *CWP Update*.

The March 10, 2007 letter focuses on the Tamalpais area and requests changes in the *CWP Update* in regard to this area. Of specific concern was the Housing Overlay Designation (HOD) site within Tam Valley. Based on concerns related to flooding the Planning Commission recommended removing the HOD from Tam Valley. The only mention of the EIR in the March 10, 2007 letter is on page three where it is stated that "Further, the CWP and the Draft EIR appears to accept "Growth" as a "given". This is not a comment on the adequacy of the EIR but rather simply the commentor's opinion. No response is required.

In the commentor's June 11, 2007 letter, in addition to the concern that the previous letter was not included in the *Final EIR Response to Comments*, the commentor expresses opinions regarding the *CWP Update*. It is stated that the FEIR does not adequately consider future development in the Countywide Plan or the effects of its implementation. Furthermore, it allows for development with too many significant, unavoidable, cumulative adverse impacts and does not adequately consider the needs and desires of the communities within its scope.

In response it should be noted that EIRs do not advocate "for" or "against" projects. Rather EIRs are informational documents intended to:

- Identify all potentially significant effects of a project on the physical environment;
- Determine the significance of impact;
- Assess the extent to which the significant effects could be reduced or avoided; and
- Identify and evaluate feasible alternatives to the project.

This EIR fulfills these requirements.

In response to the commentor's concern regarding the identified significant impacts, prior to adopting the *CWP Update* the Board of Supervisors will be required to adopt one of the following findings for each significant impact identified in the EIR:

- Changes in the project have been made to avoid or substantially reduce the magnitude of the impact;
- Changes to the project are within another agency's jurisdiction and have been or should be adopted; and
- Specific economic, social, legal, technical, or other considerations make mitigation measures or alternatives infeasible.

In addition, for each unavoidable significant impact, the Board of Supervisors will be required to adopt a Statement of Overriding Considerations that explains why the County is willing to accept the significant effect. In this way, the Board of Supervisors is required to balance the benefits of adopting the *CWP Update* against the unavoidable significant impacts.

#30

JAMES E. STARK AICP
Urban Planning ■ Urban Economics

RECEIVED

124 Country Club Drive
San Francisco, California
94132

2007 JUN 18 P 12:40

Tel 415 • 731 • 9600
Fax 415 • 731 • 0798
e-mail jesplan@aol.com

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 18, 2007

Mr. Tim Haddad
Environmental Coordinator
Marin Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

Re: Response to Comments to the Draft Environmental Impact Report, Marin
Countywide Plan Update, June 2007

Dear Mr. Haddad,

The comments below address the *Response to Comments to the Draft Environmental Impact Report, June 2007*. These comments are submitted on behalf of St. Vincent's School for Boys. I have assisted St. Vincent's in planning, land use, and environmental matters on numerous occasions in the past. I am a professional planner working in private practice. We find the time period for review and comment on the subject document far too short and reserve the right to submit additional comments at a later date.

Response 55-1

The project description remains silent with regard to amount and character of land to be removed from the City Centered Corridor as a result of the proposed Baylands Corridor. How much land will be removed from the City Centered Corridor? What is the character of the land removed in terms of infill housing opportunities and the other land use functions within the City Centered Corridor?

The nature of the Baylands Corridor habitat(s) remains elusive for decision-makers despite the DEIR Master Response I. The reader is referred to BIO-5 in the CWP for further information regarding the Baylands Corridor but that text does not define the baylands ecosystem it purports to protect beyond providing general references to other systems such as salt marsh and seasonal wetlands and "uplands". There is no technical or scientific work cited to inform the decision-makers and explain the CWP's view of the Baylands Corridor ecosystem as envisioned in BIO-5. The *Baylands Habitat Goals Report* is referenced, but that document does not support the Baylands Corridor as envisioned in the CWP.

Response 55-2

2

The St. Vincent's and Silveira properties have been elevated (by others) in the CWP process to a position of importance in Marin County land use policy. Numerous groups and members of the public have addressed all sorts of issues related to these parcels in correspondence and at public hearings. The decision-makers must have the benefit of a complete description of St. Vincent's and Silveira properties as requested in comment 55-2. This is not a request for special consideration, or a request for a "project level" of detail. This is a request for a full and fair representation of the physical situation of these important properties, which are generally acknowledged to be an important topic in the CWP.

Response 55-9

3

The original comment does not represent the CWP as "precluding development" as suggested in the response. The Baylands Corridor proposal, de facto, *reduces* significantly the size of the present City Centered Corridor and opportunities for land uses as envisioned in the City Centered Corridor. Simultaneously, the CWP directs growth to the City Centered Corridor. This is a land use conflict that the EIR needs to address.

4

As noted above, the "Baylands ecosystem" reference in the DEIR and in the CWP is not supported by citations of scientific literature that relate this "ecosystem" to the condition of lands and habitats found today in the area of the proposed Baylands Corridor.

Thank you again for the opportunity to participate in this important process.

Very truly yours,



James E. Stark, AICP

cc: Brian Cahill
Billy Reed
Stephen Kostka
Dale de Beauclair
Malcolm Sproul

RESPONSE TO LETTER 30 - JAMES E. STARK - JUNE 18, 2007

Response to Comment 30 - 1

In addition to the information provided under **BIO-5** in the *CWP Update* and Master Response I - *Baylands Corridor Issues* the Planning Commission has conducted public hearings and made considerable deliberations regarding the Baylands Corridor, as indicated in the Community Development Agency staff reports of March 5, March 19, and July 9, 2007. The Planning Commission has directed staff to clarify and refine the proposed language pertaining to Baylands Conservation, as summarized in the staff report of July 9, 2007. Additional study is recommended in considering future expansion of the Baylands Corridor on the larger primarily undeveloped parcels north of Novato.

The commentor is correct that the 1999 *Baylands Ecosystem Habitat Goals* report includes recommendations for enhancement and does not include a recommendation to restrict development across the entire St. Vincent's and Silveira properties to U.S. 101. The only consensus reached in the 1999 report as a recommendation regarding uplands was to provide a minimum 300-foot development setback from tidelands, which is acknowledged on page 2-39 of the *Draft 2005 CWP Update* and page 4.6-44 of the Draft EIR. The *Ecological Connections between Baylands and Uplands: Examples from Marin County* prepared under the direction of the San Francisco Estuary Institute in January 2007, provides additional evidence of the interrelationship between Baylands and adjacent uplands. Both of these documents contain extensive lists of references and citations pertaining to habitat connectivity, baylands and upland ecosystems, and biodiversity and ecosystem functioning. Extending the Baylands Corridor to U.S. 101 would not preclude development in upland areas; just ensure that greater consideration of the interrelationship of the scattered features on these properties is provided as part of environmental review of any specific development application.

Response to Comment 30 - 2

The commentor requests that additional descriptions be provided for the St. Vincent's and Silveira properties. As stated in Response to Comment 55-2 in the *Final EIR Response to Comments* it is not necessary to amend the Draft EIR project description to include additional descriptions about the St. Vincent's and Silveira properties.

Additional information regarding the St. Vincent's and Silveira properties is, however, available in the Marin Local Agency Formation Commission's (LAFCO) 2006 sphere of influence report.¹⁸ A description of the two properties, including existing uses and the ability of service providers to provide public services to the two properties is included in the LAFCO report.

Response to Comment 30 - 3

The commentor states that the Baylands Corridor proposal, de facto, substantially reduces the size of the present City-Centered corridor and opportunities for land uses as envisioned in the City-Centered Corridor. Since the *CWP Update* directs growth to the City-Centered Corridor, this will result in a land use conflict.

¹⁸ *San Rafael Area Service Review and Spheres of Influence Public Review Draft*, Marin Local Agency Formation Commission, January 2006, pages 113 to 120.

Policy **CD-1.1** (*Direct Land Uses to Appropriate Areas*) would concentrate urban development in the City-Centered Corridor. Furthermore this policy says to protect sensitive lands in the Baylands Corridor. Policy **CD-1.3** (*Reduce Potential Impacts*) would calculate potential residential density and commercial Floor Area Ratio (FAR) at the low end of the applicable range on sites with sensitive habitat, including in the Baylands Corridor.

The Baylands Corridor would require a detailed assessment of the environmental constraints of a site as well as impacts caused by a development proposal. Consistent with Policy **CD-1.3**, with certain exceptions (parcels two acres or less created prior to January 1, 2007 and PD-ERA areas), potential residential density and commercial floor area ratios shall be calculated at the low end of the applicable range.

The *CWP Update* provides clear direction to concentrate urban development in the City-Centered Corridor while protecting natural resources such as sensitive lands in the Baylands Corridor. The Baylands Corridor policies and programs would protect resources and reduce impacts to properties designated for development but not at the expense of removing all development potential in the City-Centered Corridor. The *CWP Update* policies regarding community development and protection of natural resources are complimentary and would not result in land use conflicts.

Response to Comment 30 - 4

See Response to Comment 30 - 1, above.

#31

2007 JUN 19 P 2:22

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

June 18, 2007

Mr. Tim Haddad, Environmental Coordinator
3501 Civic Center Drive
Room 308
San Rafael, CA 94903

Dear Mr. Haddad,

The deadline for the County Plan EIR has arrived, and we want to thank you and all of the County planners and working participants for a job well done.

We also want to be sure that our voice is heard re: public transportation and the need for recreational access to our parklands. Succinctly put:

We are advocating for a seven-days-a-week West Marin Stagecoach coastal route, and a Stagecoach stop in Muir Beach's Big Beach parking lot.

We were happy to find in the County Plan all the lofty environmental and human principles that we believe should be there.

Living as we do at Muir Beach amidst the beauty of federal and state parklands, we want to second those principles, and to emphasize our concerns that this natural beauty be preserved so that future generations, eased into "green" transportation, can continue to fulfill what must be a primal need to connect with nature.

Preserving our environment begins with being sensitive to how we are now: small-scale, rural, historically and culturally tied to old Marin (including "the Dairy," a long-standing community landmark), essentially non-commercial, with narrow, people-and-horse-friendly roads, and a small beach that is part of a protected ecosystem and future site of the National Park Service's Big Lagoon Project.

We need to be eternally vigilant, especially as we weigh the impact on our environment with the rights of all people, no matter how rich or poor, to access the beach and adjacent parklands.

To this end, we are addressing public transportation:

- We need a low-cost, eco-sensitive, West Marin coastal route along Highway One, from Marin City and the Manzanita bus stops, to points as far north as possible (Point Reyes Station is good).

- This route must include a stop at Muir Beach's Big Beach parking lot, so that people without cars can get there. (Dropping beach-goers off at Highway One is a disservice to visitors carrying their beach paraphernalia.)

- Eco-sensitive means using the West Marin Stagecoach because it, like us, is small.

Thank you for your attention, and for your good work.

Sincerely,



Judith Yamamoto, Co-chair
Greater Muir Beach Neighbors
11 Charlotte's Way
Muir Beach, CA 94965

**RESPONSE TO LETTER 31 - JUDITH YAMAMOTO - CO-CHAIR GREATER MUIR BEACH
NEIGHBORS - JUNE 18, 2007**

Response to Comment 31 -1

Commentor supports a seven-days-a-week West Marin Stagecoach coastal route, and a Stagecoach stop in Muir Beach's Big Beach parking lot. This comment focuses on the merits of the *CWP Update* rather than the adequacy of the *Final EIR Response to Comments*. No further response is considered necessary.

#32

MARGARET KETTUNEN ZEGART
118 HIGHLAND LANE
MILL VALLEY, CA 94941

RECEIVED

2007 JUN 19 A 10: 04

June 17, 2007

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Mr. Tim Haddad, Environmental Coordinator
County of Marin Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

RE: Countywide Plan Final Environmental Impact Report

Dear Tim Haddad

The Housing Overlay Designations should be removed from the County Wide Plan. It has become unworkable and often has changed.

“Alternative 4 also includes possible development of up to 501 housing units on the St. Vincent's / Silveira properties and adoption of the boundary for Option 2 for the Baylands Corridor.”

“ ... In addition, Alternative 4 includes refinements to the Housing Overlay Designation and construction of the Marin-Sonoma Narrows (MSN) road improvement.”
Staff Report June 1 p. 2.to Planning Commission

“The Marin County Planning Department's parcel data base and computer programs offer the opportunity to 'build out', an estimate of the scale and intensity of development of parcels under current zoning and development policies under various levels of geography' ...The benefit to Marin County is that ABAG takes into consideration available land and local policies as reflected in the land use data [parcel base data submitted by Marin to ABAG] when creating their projections.
Land Use Background, p. 4

This method seems to have designated all undeveloped parcels as infill sites without criteria.

Public and private open space parcels; parks and school yards that are needed for youth activities and for expansion due to increased and unpredicted school enrollments. College of Marin campus had just completed its Master Plan. Included for affordable or senior homes were high risk seismic and flood plain parcels, lands in Manzanita, Marin City and Tamalpais Valley, Santa Venetia that are identified as inundation sites by Bay Conservation & Development Commission (BCDC) mapping of climate change's rising waters. Risks of building on parcels on deep on bay mud associated with seismic activity cannot be mitigated and do not qualify as building sites within Associated Bay Area

Governments' (ABAG) guidelines of public health and safety Building according to monitoring agencies' (FEMA) is expensive and individual loss may now be catastrophic. If a home is insured the costs after the first \$1,000 are paid only upon completion of the repair or reconstruction. Gathering data by all undeveloped parcels gave an incorrect picture of buildable, available infill lands. Thus the HOD map 1 for the entire county is wrong, as is the modified map 4. which now excludes Tamalpais Valley long designated Floodplain A parcels..

Faulty data was used and the HOD diminished by many changes. As affordable inclusionary housing goal through HOD, it seems to have failed. It seems better to just use the Density Bonus, concen trating on developer negotiation with County Planning staff in hopes of obtaining some Design Review for large affordable housing projects.

Density Bonus as mandated by the State Government Code Section 65915 "is a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the General Plan [or County wide Plan] as of the date of application by the applicant to the city [or Count] (when requested by developer) provides incentives and the County must provide a developer with his or her choice of incentives. These waivers or bonuses are state law and the County or community has little Design Review Options. This applicable program should be included in detail in the FEIR since environmental considerations may be over-ridden by the developer's choices which are choice based on the number and type of development units.

"However, the incentive must result in an identifiable, financially sufficient, and actual cost reduction' and it is a developer's burden to prove that such a cost reduction would occur.

It is triggered when a housing developer agrees to affordable or senior units in the following

Proportions:

Lower income, 10% of the proposed units,

Very low income 5% of the proposed units,

Any Senior Housing Development qualifies ... and the city or county shall grant one density bonus. and incentives or concessions when the developer commits to building the requisite units. ...

Government Code 65915 (e) prohibits imposing a development standard on an affordable housing project that will preclude development at the applicable density level. ...

According to the extent that the City's [or County's] set back, lot coverage and size limitations preclude a developer from obtaining a density bonus, the City [or County] may be unable to enforce those standards. ... Note that the statute states that the granting of a density bonus 'shall not be interpreted, in and of itself, to require... zoning change.

65915 (k) On the other hand, the statute also requires that a city [county] establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. [Including minimum lot size, side yard setbacks, and placement of public works improvements.]

65915 (d) (3). Accordingly, it is not unreasonable to conclude that Section 65915 would require the City [or County] to modify its zoning standards, pursuant to the density bonus procedure that the City [or County] establishes by ordinance...

'The interaction of the inclusionary ordinance-20% affordable housing the density bonus law bonus law will only come into play when a developer specifically request a bonus or incentives. If the developer meets the statutory threshold for a density bonus, it is likely that the City [or County] will have to comply with Section 65915.. 65915 (l) allows waiving certain standards like minimum setbacks and open space... The other exception under the statute 65915(d)(1)(B) is an authorization to decline to provide an incentive where the incentive would have an unmitigable, 'specific adverse impact ... upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historic Resources

1 incentive or concession is given if 10% of Lower Income, 5% of very Low Income or 10% Moderate Income (condo/planned development)

2 incentives or concessions are given if 20% low income, 10% very low income or 20% Moderate Income (condo/ planned development)

3 incentives or concessions are given if 30% Low Income, 15% Very Low Income or 30% Moderate Income (condo/planning development)

Waivers of height standards, Floor Area Ratio (FAR) compliance, easements or open space dedications and green construction materials are characteristic requests.

The qualifying housing and units necessary to Trigger the Density Bonus:

Lower Income, 10% of the proposed units [20% increase in the number of units] But no more than 1.5% increase in density bonus for each 1% increase in lower income affordable units to a maximum density bonus of 35% of the proposed unit and up to 35%.

Very low Income, 5% of the proposed units

Any senior housing development. 20%

August 10, 2006 Memorandum, Gregory W, Stepanicich, Mill Valley City Counsel, of Richards/Watson/Gershon.attorneys at Law

Forty-two significant unavoidable impacts are associated with transportation and water supply issues. The FEIR identifies insufficient mitigation measures for traffic congestion on CalTrans Shoreline Highway 1 instance of traffic congestion the proposed mitigations would not be sufficient to reduce the impact to a less-than-significant level. However, there is an incomplete designation of this congestion since The Marin Travel Model is not an accurate predictor both local and regional traffic because only weekday, peak hour statistics were compiled.

Staff and Transportation Authority of Marin do not have weekend traffic counts, since their data only was done for peak weekday events. In the Tamalpais Planning Area the weekend counts and the comparison with weekday figures is necessary for any true evaluation or mitigation of traffic congestion on Shoreline Highway, of particular importance to the communities impacted by recreational destination vehicles.

This information is from a 38 page chapter in a Golden Gate National Recreational Study in August 2001, February 2001 and May 2002. Twenty-one locations were studied and this data provides valuable base line figures for the new Policy TR-1 and its Program TR-1 Reduction Monitoring and Implementation Program. FEIR p. 8.0-280.

P. 4-2 "As expected, the data indicates that the traffic volumes are highest in the peak season and that the weekday volumes are highest in the peak season and that the weekday volumes are about 60% of weekend volumes. The largest volumes observed were at the Manzanita Interchange (29,700-to-33,700 vpd) on Shoreline Highway in the Tam Valley between the Tam Junction and the Manzanita. The next greatest volume (18,600 vpd) occurred on Shoreline Highway just west of the Tam Junction. As Shoreline Highway approaches the intersection with Panoramic Highway at the top of the mountain, the volumes drop to 900 vpd. Traffic volumes on the remaining corridors in the study area range from a few hundred vehicles per day up to 5,000-to-7000vpd. Finally, it is interesting to note that volumes on the upper Muir Woods Road are approximately 60%-to-70% higher than volumes on the lower portion of Muir Woods Road."

Chapter 4: Traffic Operations from the Comprehensive Transportation Management Plan For Parklands in Southwestern Marin

"2. Alternative 4 (Mitigated Alternative) proposes mitigations in addition to those identified in the Draft EIR to reduce identified significant impacts of the Draft 2005 CWP Update, including significant impacts to water supply and traffic. Among other things..."
Add during water shortages consider water pressure delivery limitations for hillside developments.

"3. Based on comment it is recommended that Program PFS-2.m be revised as follows: PFS-2.m Promote Catchments. Encourage use of rainwater catchments for irrigation and other non-potable uses, and work with service providers to establish standards for rainwater quality. Ensure that catchments do not adversely affect habitat dependent on in-stream flow..." Use only tertiary treated effluent for landscaping and irrigation programs.

"BIO-1.f Prepare Appropriate Landscape Lists. Prepare lists of appropriate native and nonnative landscape species that are not invasive plants and trees, have low-water requirements and, for high fire hazard areas of the County, have low flammability. Prepare a second set of lists of plant and tree species to avoid eucalyptus, acacia and disease prone species of oak, pine and cypress that are highly flammable, and inappropriate water-thirsty plants, or and undesirable invasive exotic species like brooms, Scotch thistle and pampas grass for property owners in developing landscape plans or enhancing existing landscaping. Require applicants with parcels that share all or part of a boundary with publicly owned open space to develop landscape plans that fully conform to the lists of appropriate native plants. Prepare lists with input from the California Department of Fish and Game, Agricultural Commissioner, University of California Cooperative Extension, California Native Plant Society, Marin Municipal Water District, National Park Service, and other appropriate sources to verify suitability. Restrict nursery distribution of undesirable species.

"BIO-1.c.6. Lists of appropriate and inappropriate plant species for use in developing landscape plans to ensure that invasive exotic plants, plants with high water requirements, and in fire hazard areas, species that are highly flammable, are excluded; and

"PFS-2.g Promote Xeriscaping. Amend the Development Code to require drought-tolerant landscaping and efficient tertiary irrigation systems where appropriate for all development applications and re-landscaping projects. For parcels adjacent to publicly managed open space, appropriate landscaping will also be non-invasive and have low flammability, and prepared in strict conformance with the County's lists of appropriate native plants. and 1 Limit the amount of lawn area allowed to reduce the amount of water required for irrigation.

"19. In response to comment, Mitigation Measure 4.5-7(b), page 4.5-49 of the DEIR is revised as follows: Mitigation Measure 4.5-7(b) Obtain additional funding necessary to implement Program AIR5.c. In addition, County staff would amend the Marin County Development Code would need to be amended to include construction standards for areas threatened by future sea level rise. It is recommended that this revised mitigation measure be included in the Countywide Plan.

"20. In response to comment, the portion of Mitigation Measure 4.7-2(a) that pertains to Program PS-3.f (see page 4.7-23 of the DEIR) is revised as follows: Program PS-3.f Promote Structural and Nonstructural Safety. Provide and inform the public of the available educational guides promoting structural and nonstructural earthquake safety.

Develop emergency evacuation routes. Have the County acquire community prioritized paths, steps and stairs. This recognition sought since 1902 would enable community groups, public works and conservation corps maintenance [as done in neighboring hill communities, Sausalito and Mill Valley]

“Safe, convenient connections ~~should~~ shall be provided to existing pedestrian and bicycle facilities and secure bicycle parking ~~should~~ shall be provided in new residential and nonresidential developments. *FEIR p.8.0-280*

June 1 Marin county Staff Report to Planning Commission

Add maps prior to certification of the Countywide Plan of hazards in Southern Marin area. Map 2-10 [I submitted to planning staff a more inclusive earthquake fault map]

Maps, tentative estimations from BCDC of future inundation for Santa Venetia, Marin City, Manzanita, and Tamalapais Valley and other shoreline areas.

Correct maps that have omitted areas in Southern Marin and include them in the *County Wide Plan* before its adoption

2-12 Flooding

2-11 Liquefaction Susceptibility

2-9 Seismic Shaking Amplification

Remove discarded option maps upon final Supervisor's approval- i.e. Baylands Corridor.

The FEIR is a great task you have undertaken. Baseline data is missing and changes have so often occurred. An appendix could include the legislated Transit on Demand (TOD) descriptions of the necessary transit hub .25 miles from funded developments and infrastructure constraints, the level of service (every 10 minutes throughout the day) on several routes for a realistic approach for Marin County to qualify for TOD or any available transit /housing funds. The appendix might include the complete text of the legislated Density Bonus which shall affect all affordable housing development.

Sincerely,



Margaret Kettunen Zegart

RESPONSE TO LETTER 32 - MARGARET KETTUNEN ZEGART - JUNE 17, 2007

Response to Comment 32 -1

The commentor provides a commentary on areas of concern to her, including a request that the Housing Overlay Designations be removed from the *CWP Update*. In several instances, the commentor states that proposals in the *CWP Update* or mitigation measures in the EIR are unacceptable. The commentor's opinions are noted. This information will be available to Marin County decision-makers when they make decisions about the proposed *CWP Update* itself.

RESPONSE TO PLANNING COMMISSION MEETING COMMENTS

This section presents a summary of the oral comments presented to the Marin County Planning Commission at their June 11, 2007 meeting as well as responses to those comments.

Public
Hearing

Planning Commission Meeting
Monday, June 11, 2007

ROLL CALL The meeting was called to order by Chair Wade Holland at 9:38 AM

Present: Hank Barner, Don Dickenson, Mark Ginalski, Randy Greenberg,
Wade Holland, and Jo Julin.
Absent: Steve Thompson.

1. INITIAL TRANSACTIONS

a. Incorporate Staff Reports into Minutes

M/s Hank Barner - Jo Julin to incorporate staff reports into the minutes.

Vote: Motion carried 6-0

AYES: ALL

ABSENT: Steve Thompson.

Commissioner Thompson arrived at 9:39 a.m.

b. Continuances - None

c. Minutes - April 30, 2007

M/s Jo Julin - Randy Greenberg to approve the minutes of April 30, 2007, as corrected.

Vote: Motion carried 7-0

AYES: ALL

d. Communications

3. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

Allan Bortel, representing the Marin County Commission on Aging, spoke regarding the Commission on Aging and its scope of work; population growth; and development.

2. DIRECTOR'S REPORT

4. MARIN COUNTYWIDE PLAN FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)

Public hearing on the Marin Countywide Plan Final Environmental Impact Report. Hearings on the Countywide Plan are proceeding under the schedule adopted by the Planning Commission and the Marin County Board of Supervisors. The Planning Commission has held previous hearings on the Draft EIR. Today's hearing will focus on the Final EIR. The purpose of today's hearing is to take testimony limited to and exclusively focusing upon the adequacy of the Responses to Comments that were received on the Draft EIR.

Bob Berman of Nichols Berman, consultant for the preparation of the Countywide Plan Environmental Impact Report, spoke regarding the Response to Comments document and the Draft Environmental Impact Report (DEIR).

Chair Holland opened the public hearing. [00:41:40]

David Schonbrunn, representing Transportation Solutions Defense and Education Fund (TRANSDEF), spoke regarding the proposed Transportation Element of the CWP; sustainability; TDM; and VMT.

Marjorie Macris, representing the Campaign for Marin, spoke regarding the County's response to comment letters submitted by the Campaign for Marin; Environmentally Superior Alternatives with Mitigations; transportation and land use consistency; commercial development buildout; LOS; the wetlands definition; the lawsuit in San Bernardino County; and impacts of the CWP on global warming.

Allan Bortel, representing the Housing and Transportation Committee of the Marin County Commission on Aging, spoke regarding demographics; the St. Vincent's property; the proposed Baylands Corridor; senior, workforce, and affordable housing; and the needs of seniors.

Roger Roberts, representing the Marin Conservation League, spoke regarding the County's response to the MCL's questions and the SCA.

Margaret Kettunen Zegart, representing the Tamalpais Planning Area Bayfront Coalition, spoke regarding the proposed HOD; Association of Bay Area Governments (ABAG) population allocation; affordable and senior housing in Tam Valley; catchments; landscape irrigation ponds; FEMA requirements; Muir Woods State Park drainage; transportation alternatives; and trails for evacuation of Tam Valley.

The Commission took a short break and resumed at 11:23 a.m.

Perry Newman, representing the League of Women Voters, spoke regarding the St. Vincent's and Silveira properties; the proposed Baylands Corridor; the 1999 Habitat Goals Report and the 2007 San Francisco Estuary Institute Report; and the DEIR.

Barbara Salzman, representing the Marin Audubon Society, spoke regarding definitions of baylands; the County's response to comment letters submitted by the Marin Audubon Society; and DEIR response to comment 36-2 regarding migratory species, response to comment 36-4 regarding the identification of sensitive natural habitats; wetlands; and response to comment 36.14 and trails.

Cela O'Connor, resident of Bolinas, spoke regarding the County's response to her comments; allowable uses in the SCA; BIO-4.a the Expanded SCA Ordinance; zoning designations; wildlife; riparian vegetation; stream preservation; and grasslands.

Ann Spake, resident of Mill Valley, spoke regarding her comment letter dated March 10, 2007; maps; mitigations; water resources; traffic; development in the floodplain; health and safety; BCDC policies regarding development in flood prone areas; affordable and market rate housing; and the FEIR policy guidelines.

(End of Planning Commission Meeting Comments)

RESPONSE TO PUBLIC HEARING COMMENTS OF DAVID SHOENBRUN

Response to Comment PH - A

The commentator stated that the *CWP Update* should include expanded policies and recommendations for Transportation Demand Management (TDM) as well as a requirement for the cities and towns to meet together regularly with the County to discuss opportunities for countywide TDM policies. The commentator identified cities where TDM programs have had a positive impact on VMT. It is hoped that through cooperation with the cities and towns, Marin County can develop policies and programs that will have further positive impact.

The *CWP Update* includes several programs that include TDM requirements. For example, Policy **TR-1.1** (*Manage Travel Demand*) states that before funding transportation improvements, consider alternatives (e.g., TDM) and prioritize projects that will reduce fossil fuel use and reduce single-occupancy vehicle trips. Policy **TR-1.8** (*Reduce Vehicle Miles Traveled [VMT]*) would reduce the rate of increase for total vehicle miles traveled by single-occupant automobile so as to not exceed the population growth rate. Program **TR-1.q** (*Review Parking Requirements*) would review parking requirements for senior and affordable housing to encourage transit-oriented development. Program **TR-1.s** would develop and implement a program to identify and require new development-specific strategies for reducing the rate of increase for VMT. Included in this program is the requirement that TDM programs be required for new or expanded projects with 50 employees or more.

In response to the comment regarding the need for cooperation, Program **CD-4.f** (*Establish a City-County Planning Committee*) would have Marin County consult with the cities and towns to consider establishing a committee to, among several things, collaborate on housing, transportation, land use, and sustainability issues.

Response to Comment PH - B

The commentator states that a problem with the *CWP Update* and the Draft EIR is the failure to be a truly countywide plan. What should have been in the *CWP Update* or Draft EIR or FEIR was a countywide set of plans that would reduce VMT.

The *CWP Update* and the FEIR include those transportation related policies and programs that can be reasonably implemented by the County itself. Other potential programs and policies have been identified as potentially being effective in reducing VMT, but are not included as mitigation measures because the County does not have jurisdiction for implementation.

The *CWP Update* includes a program (Program **CD-4.e** [*Initiate Periodic Meetings*]) for regular meetings between the cities and towns and the County during which opportunities for countywide programs can be further discussed and implemented. Nothing in the Final EIR or the *CWP Update* prohibits or limits the County and the cities and towns from developing TDM measures greater than what is required in these documents.

Response to Comment PH - C

The commentator stated that Policy **TR-1.8**, as it is presented in the FEIR is incorrect and does not represent the Planning Commission direction.

The commenter is correct. Policy **TR-1.8**, as revised by the Planning Commission, reads as follows:

TR-1.8 Reduce Vehicle Miles Traveled (VMT). Reduce the rate of increase for total vehicle miles traveled by single-occupant automobile to not exceed the population growth rate.

Response to Comment PH - D

The commentor noted that there is a mistake in the first sentence in the seventh paragraph on page 8.0-12 in the Final EIR Response to Comments. The term “per capacity” should be “per capita”. The commentor is correct; the sentence is revised as follows:

“Even with Mitigation Measure 4.2-1, as a general trend, VMT increases over time and VMT per ~~capacity~~ capita continues to increase year after year under the *Draft 2005 CWP Update* and each of the alternatives.”

Response to Comment PH - E

The commentor asked for clarification of the term *vehicle driver trips* in the seventh line of the fourth paragraph on page 8.0-9 of the *Final EIR Response to Comments*.

The term, *vehicle driver trips*, refers to trips made with a member of the household driving. In cases where household members travel together, this constitutes a vehicle driver trip and a vehicle passenger trip.

RESPONSE TO PUBLIC HEARING COMMENTS OF MARJORIE MACRIS

Please see responses to Letter 4 (Campaign for Marin) for responses to issues raised by Marjorie Macris.

RESPONSE TO PUBLIC HEARING COMMENTS OF ALAN BORTEL

Please see responses to Letter 10 (Statement of the Marin County Commission on Aging) for responses to issues raised by Alan Bortel.

RESPONSE TO PUBLIC HEARING COMMENTS OF ROGER ROBERTS

Please see responses to Letter 9 (Marin Conservation League) for responses to issues raised by Roger Roberts.

RESPONSE TO PUBLIC HEARING COMMENTS OF MARGARET ZEGART

Please see responses to Letter 32 (Margaret Kettunen Zegart) for responses to issues raised by Margaret Kettunen Zegart.

RESPONSE TO PUBLIC HEARING COMMENTS OF PERRY NEWMAN

Response to Comment PH- F

The commentor raised concerns regarding the Baylands Corridor and boundary at St. Vincent's.

See Response to Comment 30 - 1 regarding establishment of the Baylands Corridor.

RESPONSE TO PUBLIC HEARING COMMENTS OF BARBARA SALZMAN

Please see responses to Letter 8 (Marin Audubon Society) for responses to issues raised by Barbara Salzman.

RESPONSE TO PUBLIC HEARING COMMENTS OF CELA O'CONNOR

Please see responses to Letter 27 (Cela O'Connor) for responses to issues raised by Cela O'Connor.

Response to Comment PH - G

Commentor raised an additional concern regarding the term "woody and herbaceous" in regarding to riparian vegetation and suggested that term "woody" be removed.

Issues regarding the use of the term "woody" are discussed in the July 9, 2007 staff report.

RESPONSE TO PUBLIC HEARING COMMENTS OF ANN SPAKE

Please see responses to Letter 29 (Ann and Gene Spake) for responses to issues raised by Ann Spake.

RESPONSE TO PLANNING COMMISSIONERS COMMENTS

Response to Comment PH - H

A question was raised regarding the reference to the Vintage Oaks Area on page 8.0-32 of the *Final EIR Response to Comments*.

The reference to the Vintage Oaks Area is correct. The Baylands Corridor maps have been revised to extend westward to include the wetland areas on the west side of U.S. 101 in the vicinity of the Rowland Boulevard interchange. Portions of the Vintage Oaks shopping center were also included in this westward expansion. These areas were added because they were included in the Bayland Conservation Zones in the 1994 CWP.

Response to Comment PH - I

A question was raised regarding what transportation improvements would be necessary to meet level of service standards and conversely how much development could be accommodated by the improvements reasonably expected.

Please see Response to Comment 5-2, above, in regard to the issue of determining the development capacity available with current and reasonably projected roadway and transportation conditions.

In response to the question regarding what kind of transportation improvements would be needed to meet level of service standards at buildout of the *CWP Update*, the Final EIR includes mitigation measures that would bring the transportation system into compliance with LOS standards. Many of these measures, however; can only be implemented with additional funding or public process, and therefore have not been “counted on” as part of the Final EIR analysis. However, the *CWP Update* includes language intended to safeguard the County from implementing development that outpaces the ability of the transportation system to absorb new development. To ensure that development does not outpace the ability of the transportation system to handle the growth included in the *CWP Update*, Mitigation Measure 4.1-2 includes a policy to correlate development and infrastructure, including transportation improvements. Policy **CD-5.3** (*Correlate Development and Infrastructure*) in the *CWP Update* states that new development should only occur when adequate infrastructure is available, consistent with certain findings. One finding is that project related traffic will not cause level of service standards established in the circulation element to be exceeded.

Response to Comment PH - J

A question was raised regarding the possible extension of Baylands Corridor north of Novato.

Clarification of the Baylands corridor boundary north of Novato is discussed in the July 9, 2007 staff report.

Response to Comment PH - K

A question was raised about the reference to the Manzanita Park and Ride Facility discussed in Response to Comment 1-9 as to who was responsible to build the facility.

Caltrans built the original park and ride lot about 30 years ago. The lot was constructed with a combination of State and federal funds. Title to the lot was turned over to Marin County in the 1980s and the County built a 70-space addition in the 1990s. Marin County is the current owner of the facility.¹⁹

Response to Comment PH - L

It was stated that in Response to Comment 23-47 in the *Final EIR Response to Comments* regarding the percentages of K-12 students on page 4.10-62 of the Draft EIR, the percentages still do not total 100 percent. The percentages shown on page 8.0-229 of the *Final EIR Response to Comments* are correct. However, it should have further stated that the remaining 2.3 percent of the students were listed as Multiple or No Response in the demographic survey.

Response to Comment PH - M

Comments were made that some of the language in the column headed “Planning Commission Recommendation” in **Exhibit 8.0-13** do not exactly match all of the planning commission recommendations. Minor text differences were noted.

Community Development Agency staff has compared the text of the *May 2007 Draft CWP Update*, which reflects the direction of the Planning Commission, with **Exhibit 8.0-13** of the *Final EIR Response to Comments* to ensure that the text of the two documents is consistent. The County staff

¹⁹ Nelson / Nygaard communication with Art Brook, Marin County Department of Public Works, July 2007.

found some minor discrepancies in **Exhibit 8.0-13** from the language included in the *May 2007 Draft CWP Update*. The *May 2007 Draft CWP Update*, prepared after the *Final EIR Response to Comments*, has undergone a vigorous review and does accurately reflect the direction of the Planning Commission. The noted discrepancies were likely due to the evolving nature of the Planning Commission recommendations. These discrepancies, however, are not substantive and do not affect the analysis or conclusions in **Exhibit 8.0-13**, nor do they trigger the thresholds for recirculation as identified in Section 15088.5 of the *CEQA Guidelines*.

Response to Comment PH - N

Concern was raised regarding the cumulative impact discussions within the SCAs.

Please see Responses to Comments 8-2 and 9-1, above, regarding cumulative biological impacts.

EIR ERRATA

Errata

Exhibit 8.0-13 summarizes the Planning Commission’s recommended revisions to *Draft 2005 CWP Update* policies and programs. In addition to recommended revisions the Planning Commission has also recommended deletion of three proposed policies, Policy **CD-2.2** (*Establish a Housing Bank*), Policy **CD-5.1** (*Coordinate Service Provision*) and Policy **PA-7.2** (*Designate Lands in the Coastal Zone*).

Exhibit 8.0-13 is amended to include reference to the three recommended deleted policies as follows:

Errata for Summary of Planning Commission Recommendations	
Planning Commission Recommendation	Effect of Change on Analysis in EIR
<p>Policy CD-2.2 <i>Establish a Housing Bank.</i> A “Housing Bank” is established, representing adjustments to the development potential of certain environmentally constrained sites within the county. The Housing Bank includes 1,763 units, which may be allocated to sites within the Housing Overlay Designation, as described in Policies CD 2.3 and 2.4. The Housing Bank will be drawn down as qualifying units are constructed and will be eliminated when all 1,763 units have been constructed.</p>	<p>The Planning Commission recommends deletion of this policy, which would have established a housing bank in connection with the Housing Overlay Designation. The Planning Commission recommended elimination of the Housing Bank because such a mechanism was not necessary for the implementation of the Housing Overlay Designation. Specifically, through implementation of Policy CD-2.3 (<i>Establish a Housing Overlay Designation</i>), sites within the HOD are assigned caps for housing unit allocations. Elimination of the Housing Bank does not affect the Housing Overlay Designation Policy and Program. The elimination of this policy does not affect any analysis or alter any conclusions in the EIR, nor does it trigger the thresholds for recirculation as identified in Section 15088.5 of the <i>CEQA Guidelines</i>.</p>
<p>Policy CD-5.1 <i>Coordinate Service Provision Countywide.</i> Ensure that provision, timing, and funding of public services meets the needs of appropriate growth in the county. Ensure that the design, density, and location of new development can be served by available water supply, and that the site and building integrate water conservation techniques and other green building design features including water conservation techniques.</p>	<p>This policy was replaced with New Policy CD-5.1 (<i>Provide Adequate Infrastructure Capacity</i>) and New Policy CD-5.3 (<i>Correlate Development and Infrastructure</i>). These new policies accomplish similar outcomes related to coordinating the provision, timing, and funding of public services such that new growth would be appropriate to the specific area and constrained by available services such as water supply and wastewater treatment. Therefore, the elimination of Policy CD-5.1 does not affect any analysis or alter any conclusions in the EIR, nor does it trigger the thresholds for recirculation as identified in Section 15088.5 of the <i>CEQA Guidelines</i>.</p>

Errata for Summary of Planning Commission Recommendations	
Planning Commission Recommendation	Effect of Change on Analysis in EIR
<p>Policy PA-7.2 Designate Lands in the Coastal Zone. The Local Coastal Program (LCP) shall govern land use in the Coastal Zone. Community plans in the Coastal Zone shall be subject to LCP policies and reflect community concerns and values.</p>	<p>The Planning Commission recommends this technical change per the advice of legal counsel to ensure that the Countywide Plan complies with General Plan requirements. The LCP will continue to be enforced and administered by the County and the Coastal Commission and is unaffected by the CWP. This policy was not relied on in the Draft EIR to reduce any impacts of the <i>Draft 2005 CWP Update</i>. Therefore, the elimination of this policy does not affect any analysis or alter any conclusions in the EIR, nor does it trigger the thresholds for recirculation as identified in Section 15088.5 of the <i>CEQA Guidelines</i>.</p>