



Marin Audubon Society

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September 27, 2012

Chairman Steve Kinsey, President
Marin county Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

RE: COMMENTS ON LOCAL COASTAL PLAN

Dear Chairman Kinsey and Supervisors:

Thank you for the opportunity to comment on the most recent draft of the Local coastal Plan. The process to this point has been long and complex and we appreciate the great effort the staff has made to reach out and consider input from the community. While many of the recommended policies are beneficial, we are concerned that in the overall, policies of the Draft LCP would provide weaker protections for West Marin's important natural resources in than those in the existing LCP. Please consider the following comments and recommendations to strengthen environmental protections:

Provision for Seas is a clear benefit for the coastal zone as ESHAs as a concept are non existent in the rest of the county. There are some important wildlife resources, specifically migratory and raptor species, whose habitats should be included as ESHAs.

CC-BIO 2 ESHA Protection

The standard should be to avoid impacts to ESHA's. We recommend that:

2. Public access to ESHA's should be controlled not just to minimize disturbance but to avoid disturbance. We are also concerned that controlling the timing and intensity of access would be impossible and recommend the following language: Control public access so that it preferably avoids disturbance to wildlife by locating access paths away from ESHA's and ESHA buffers.

3. b. Mitigation measures that minimize or reduce impacts are not equivalent to measures that eliminate adverse impacts. Change this policy to read: "...where elimination is not possible will, (mitigation measures) that reduce and compensate for environmental effects to less than significant levels." Such measures as increasing habitat elsewhere could be used.

We support more clearly establishing minimum mitigation ratios as recommended by staff.

Code Section 22.130.030 Environmentally Sensitive Habitat Area

We recommend retaining the list of special habitats: A. Central dune scrub; B. Coastal terrace prairie, C. Serpentine bunchgrass; D. Northern maritime chaparral. These habitats are not included in the suggested revised language and their importance should not be lost.

Code Section 22.64.050 b. provides that “a site assessment be prepared by a qualified biologist hired by the county and paid for by the applicant” if an initial assessment by the county indicates the presence of an ESHA. Throughout the LCP, wording should be clarified that this requirement applies to all biological submittals required from applicants.

CC-BIO 14 Wetlands

We support policies BIO-14 and BIO-19 from the LCPA Land Use Plan stated on page 39, Attachment 2. Wetlands would not exist in any location if the required hydrology did not exist, either as ground or surface water, for the specific period of time. There is no distinction in regulatory definitions that a wetland be “natural.”

Provision to continue grazing (Attachment 3 page 8) in wetlands, as provided in existing policy BIO-14, of April 1, 1981, clearly benefits property owners. To ensure there is no wetland loss, these areas should be recorded and there should be a requirement that they do not lose their wetland classification, even though characteristics may change due to use.

We are willing to go along with the above policy (also stated in Attachment 2, page 39), as long as the wetlands are recognized as wetlands and continue to be classified as wetlands even though the activities may have obliterated wetland characteristics, and as long as there is no exclusion for so called “artificial” wetlands.

The Farm Bureau has requested wetland exclusions for stock ponds, wallows and ditches. If historic wetlands are to be used and degraded through that use, new wetlands should be recognized as wetlands no matter what the perceived origin. Otherwise wetlands and the many benefits they provide would be lost in both ways.

C-BIO-20 WETLAND BUFFER ADJUSTMENTS (page 14)

A 100-foot wide wetland buffer should be required. A one-hundred foot wetland buffer has been the standard in Marin County for the last two countywide plans and should not be weakened just because a wetland is in the coastal zone. There should be no allowances for reducing the wetland buffer width, except to prevent a taking, i.e. if the property is so small that there is nowhere else to build. To do otherwise would weaken protections for these important habitats.

Also, this proposed policy allows for a wetland buffer adjustment if “The County determines that the applicant has demonstrated that a 100 foot buffer is unnecessary....” This indicates that applicants can hire and submit reports from consultants. We oppose this language and strongly recommend that it be clarified by inserting the Section 22-64-

050 that such reports shall be prepared by a qualified biologist hired by the county and paid for by the applicant.

C-BIO-21 WETLAND IMPACT MITIGATION

The no net loss provision in this policy is important to retain. The clarifications are all; beneficial except a requirement for 3:1 for off-site mitigation should be included.

C-BIO-25 STREAM AND RIPARIAN BUFFER ADJUSTMENTS (page 14)

Contains similar weakened language allowing for reduce buffer based on input from an applicant's consultant. The discussion above also applies here. We strongly object to the language suggested on page 48-49, Attachment 2. There should be no provision for reducing stream buffer width.

In no case should the buffer width be less than 100 feet on either side of the stream, as measured from the top of the streambank." as provided in LCP Unit 11 (see Attach 2, page 42).

C-BIO-24 COASTAL STREAMS AND RIPARIAN VEGETATION

We have consistently objected to allowing water supply and flood control projects in-streams because these facilities require dams, alter they hydrology and adversely impact wildlife and stream habitats. While the suggested addition of limiting language for water supply projects "where no other less environmentally damaging method of water supply is feasible, is an improvement, (Attachment 3, page 7), it and the flood control project policy would still result in significant adverse impacts to streams and should not be adopted.

C-BIO-5 b. SAFE HARBOR

The revised Safe Harbor language seems fine but warrants future work to clarify as recommended on page 9 Attachment 3

Thank you for considering our input.

Sincerely,



Barbara Salzman Co-chair
Conservation Committee