

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

December 9, 2008

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Public Hearing to consider proposed text and map amendments to the 2007 Marin Countywide Plan

Dear Board Members:

RECOMMENDATIONS:

On behalf of the Planning Commission, staff recommends your Board consider the following actions:

1. Review the administrative record
2. Conduct a public hearing
3. Consider adopting the Resolution approving the 2008 Addendum to the 2007 Marin Countywide Plan Environmental Impact Report and Amendment to the 2007 Marin Countywide Plan as recommended by the Planning Commission
4. Consider adopting the Resolution approving the Amendment to the 2007 Marin Countywide Plan Maps 2-5a and 2-5b, Baylands Corridor, at the San Rafael Rock Quarry as recommended by the Planning Commission
5. Consider the Resolution adopting the 2008 Addendum to the 2007 Marin Countywide Plan Environmental Impact Report and Amendment to the 2007 Marin Countywide Plan recommended by staff

SUMMARY:

On November 6, 2007, your Board adopted the Marin Countywide Plan (CWP), a comprehensive, long range document used to guide the conservation and development of Marin County. Since the adoption of the Plan a number of technical corrections have been brought to staff's attention. These edits range from correcting program numbering and grammatical mistakes to minor text revisions to provide additional clarification and consistent use of terminology. Another amendment calls for incorporating the Marin County Operational Area Hazard Mitigation Plan by reference into the CWP's Environmental Hazards section, which will enable the County to qualify for 100% disaster relief funding from the California Disaster Assistance Act.

In addition, amendments to the Nicasio Land Use Policy Map 7.9, Tamalpais Land Use Policy Map 6.1.2, and the Baylands Corridor Maps 2-5a and 2-5b are proposed. A revision to Map 7.9 for the Nicasio planning area is needed to change a land use designation incorrectly applied to a parcel, from PF-AG1 to AG1, while Map 6.1.2 is updated to reflect annexation of land to the

City of Mill Valley. Minor changes to the location of the Baylands Corridor boundary are proposed at the San Rafael Rock Quarry and San Quentin State Prison sites to more accurately reflect existing physical conditions.

PLAN CONSISTENCY AND ENVIRONMENTAL REVIEW:

The proposed amendments to the CWP are minor and technical in nature and are consistent with State Law. The amendments are consistent with the goals and policies of the CWP because they correct, clarify, or otherwise revise existing policies and programs contained in the CWP. The potential impacts of implementing these amendments have been adequately addressed in the certified CWP Update EIR. A subsequent or supplemental EIR is not required pursuant to CEQA Guidelines Section 15162 - "Subsequent EIRs" because the proposed project (i.e., proposed amendments) does not include substantial changes involving new or more severe environmental effects that would result from the adoption of these amendments, nor does the proposal involve new information that was not known at the time the EIR for the CWP was certified. An Addendum to the CWP Final EIR has been prepared pursuant to CEQA Guidelines sections 15162 and 15264. The Addendum finds that the proposed CWP Amendments comprise minor and technical changes to the CWP policies evaluated in the Final EIR and that no new or more severe impacts not addressed in the Final EIR would result from the adoption of the Amendments to the CWP.

PUBLIC NOTICE:

The Community Development Agency has published a notice in the Marin Independent Journal which includes a general description of the proposed amendments to the Marin Countywide Plan. In addition, a copy of the public notice has been mailed to interested public agencies, organizations, community groups, and individuals, as well as posted to the Marin Countywide Plan Update website (www.future-marin.org).

DISCUSSION:

The following provides a summary and analysis of the proposed amendments to the CWP. While this package of revisions constitutes one amendment to the Countywide Plan, the proposed amendments are grouped in the following sections:

- **Section A:** Technical Corrections
- **Section B:** Language Clarifications
- **Section C:** Amendment to the Location of the Baylands Corridor at the San Rafael Rock Quarry
- **Section D:** Amendment to the Location of the Baylands Corridor at San Quentin State Prison

For your convenience, the proposed text changes are highlighted and shown in track changes (underline and strike through) format below.

SECTION A: TECHNICAL CORRECTIONS

The following technical changes proposed in this section clarify, correct, and improve the readability of select CWP policies, programs, and maps.

1. Page 2-26, BIO-3.e Establish Clear Mitigation Criteria

BIO-3.e *Establish Clear Mitigation Criteria.* Amend the Development Code to incorporate wetland impact mitigation~~s~~ measures that accomplish the following objectives.....(remainder not shown).

Discussion: This is a grammatical change to improve readability.

2. Page 2-36, BIO-4.c Prepare County Stream Map

BIO-4.c *Prepare County Stream Map.* Use the County GIS to map perennial, intermittent, and, where feasible, ephemeral streams subject to SCA policies. Use the resulting mapping in conjunction with USGS ~~maps~~ data and the “ephemeral stream” definition to confirm SCAs on parcels proposed for development. Add to and update the ~~maps~~ data on an ongoing basis as additional streams are surveyed.

Discussion: The purpose of this change is to update language to reflect that data are now prepared and stored digitally with Geographic Information Systems software and applications, which has replaced the use of paper maps. Please also refer to Item #5 below for a related change to the stream definition.

3. Page 2-71, Environmental Hazards Background

“...In April 2005 the ~~OES prepared~~ Board of Supervisors adopted the Marin County Operational Area Hazard Mitigation Plan, which describes strategies for sustaining and building on existing mitigation activities to ensure the future and safety of lives, preservation of property, and protection of the environment during times of disaster. The Marin County Operational Area Hazard Mitigation Plan is adopted by reference and integrated into the Environmental Hazards section of the Countywide Plan to assure consistency.”

Discussion

This proposed change adds and clarifies language to incorporate Marin County’s Operational Hazard Mitigation Plan (HMP) into the Environmental Hazards section of the CWP. By formally integrating the document into the Environmental Hazard section, Marin County will be eligible to receive additional federal funding (up to 100 percent) after a disaster, consistent with the federal Disaster Mitigation Act of 2000.

4. Page 5-54, Definition of “Stream” in Glossary

Stream. A natural or once natural flowing open drainage channel with an established bed and bank. These consist of perennial, intermittent, and ephemeral streams, including open waterways that have been restored, modified, or channelized, but do not include ditches, culverts, or other above- or below- ground conduits constructed

specifically for storm drainage function. Perennial and intermittent streams, shown as solid or dashed blue lines (or purple lines) on the most recent appropriate USGS data quadrangle sheets, and ephemeral streams as defined below, are subject to Stream Conservation Area protection policies. See “*Stream Conservation Area (SCA)*.”

Discussion

Similar to Item #2 above, this change acknowledges that Geographic Information Systems (GIS) software and applications have replaced the use of paper maps as data storage devices. The GIS is used as a computer-based repository of digital maps, databases, and software that provide for the capture, organization, and display of spatially-distributed data. Paper (or hard copy) maps are now primarily used for the display, rather than the storage, of information.

5. Nicasio Land Use Policy Map 7.9

Revise the Nicasio Land Use Map 7.9 to correct the land use designation of parcel 121-050-42 that was erroneously designated PF-AG1 (Public Facility, Agriculture) to AG1 (Agriculture 1) (Attachment 1).

Discussion

According to Ordinance 2373, the subject parcel is zoned ARP-60 (Agriculture Residential Planned) with a maximum residential density of one unit per 60 acres. The one-acre property, situated along the northern side of Nicasio Valley Road adjacent to the County’s corporation yard, is privately-owned and developed with a single-family residence. The Public Facility (PF) designation is intended for land used as a public institution and may be combined with another land use designation, as was done for the neighboring properties on the southern side of Nicasio Valley Road owned by the Nicasio School District, which are designated PF-AG1. Revising the land use designation of this parcel from PF-AG1 to AG1 to remove the PF designation would correct a mapping error. The AG1 land use designation is consistent with the use and intent of the designation and is consistent with similarly-situated properties in the area.

6. Tamalpais Land Use Policy Map 6.1.2

Revise the Tamalpais Land Use Policy Map 6.1.2 to indicate the annexation of various parcels to the City of Mill Valley (Attachment 2).

Discussion

Parcels 048-071-08, 26, 30, 38, 39 and 048-134-01, 06, 23, 27, 52, and 60, also identified as 500 - 550 Miller Avenue, have been annexed to the City of Mill Valley, effective August 20, 2008. The Tamalpais Land Use Policy Map 6.1.2 should be updated to reflect this new information.

7. Other Technical Changes:

- **Page 2-31:** BIO-4.4, delete the extra hard return in the paragraph.
- **Page 2-174:** Figure 2-30, Agriculture and Food Program Implementation: Replace “AG1.r” with “AG-1.r”

- **Page 2-66 – 77:** Figure 2-6, Water Resources Program Implementation: Replace “MCSTOPP” with “MCSTOPPP”
- **Page 3-37:** in the land use table for Rural/Residential, delete the extra “....” before RSP-1 in the Consistent Zoning column.
- **Page 3-50:** Figure 3-6, Community Development Program Implementation: Replace “CD-1.c Reduce” to “CD-1.c – Reduce”
- **Page 3-170:** Figure 3-38, Transportation Program Implementation: Replace “()” with “.” in TR-1.g.
- **Page 3-207:** add hyphen to PFS 4.4 to read “PFS-4.4”
- **Page 3-214:** Figure 3-50, Public Facilities and Services Program Implementation: Replace “NMMWD” with “NMWD” in PFS-2.l, PFS-2.m, and PFS-2.n.
- **Page 4-22:** Figure 4-6, Economy Program Implementation: Replace “H&HR” with “H&HS” in EC-2.g. and “EC-1.m Partner” with “EC-1.m – Partner”
- **Page 4-28:** Renumber CH-2.g Explore Funding Options to CH-2.e.
- **Page 4-28:** Renumber CH-2.h Review Incentive Options to CH-2.f.
- **Page 4-32:** Figure 4-10, Child Care Program Implementation: Renumber “CH-2.f” to “CH-2.e” and “CH-2.g” to “CH-2.h.”

Discussion

These corrections improve the readability and clarity of these CWP policies and programs.

SECTION B: LANGUAGE CLARIFICATIONS

The following changes are intended ensure consistent use of terminology and clarify language with regards to calculating residential density and commercial floor area ratio (FAR) for the Countywide Plan land use designations.

1. Page 2-40, Goal BIO-5, Baylands Conservation

“...Within the Baylands Corridor, potential residential density and commercial floor area ratios shall be calculated at the low~~est~~ end of the applicable ranges. This provision does not apply to small parcels (2 acres or less in size) that were legally created prior to January 1, 2007...”

2. Page 3-8, Community Development Background

The Plan’s land use pattern reflects existing development potential shifted, to a degree, from environmentally constrained sites to more appropriate locations. Sites with environmental constraints or lacking public water or sewer systems have had development potential reduced to the low~~est~~ end of the density range for the applicable designation. These adjustments to development potential are reflected in corresponding increases in development potential in the City-

Centered Corridor at locations closest to jobs and transit that are better suited to accommodate the development.

3. Page 3-12, CD-1.3 Reduce Potential Impacts.

CD-1.3 Reduce Potential Impacts. Calculate potential residential densities and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat or within the Ridge and Upland Greenbelt, or properties lacking public water or sewer systems except for multi-family parcels identified in certified Housing Elements.

4. Page 3-13, CD-1.c Reduce Potential Impacts

CD-1.c *Reduce Potential Impacts.* Amend the Development Code to calculate potential residential density and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat or within the Ridge and Upland Greenbelt, the Baylands Corridor, or properties lacking public water or sewer systems except for parcels identified in certified Housing Elements.

5. Page 3-153, TR-1.e Uphold Vehicle Level of Service Standards.

TR-1.e Uphold Vehicle Level of Service Standards. "...New development shall be restricted to the lowest end of the applicable residential density/commercial floor area ratio range where the LOS standards will be exceeded at any intersection or road segment or worsened on any grandfathered segment..."

Discussion

The above changes are intended ensure consistent use of terminology and clarify the intent of the language. A basic premise of the CWP is to shift development potential from environmentally constrained areas, such as areas located in the Ridge and Upland Greenbelt and the Baylands Corridor, or areas lacking public water or sewer systems, to more appropriate locations along the 101 corridor closer to jobs and transit where development could be more easily accommodated. The CWP also encourages less intensive development within these constrained areas and requires density to be calculated at the lowest end of the CWP designation range (see Programs CD-5.e, CD-6.a, and DES-4.e). While these programs specify calculating density at the "lowest" end of the density range, other CWP language refers to calculating density at the "low" end of the range (see Goal BIO-5, Policy CD-1.3, and Program TR-1.e). Further, this assumption was used to prepare the overall buildout potential of the CWP's policies for the year 2030.

The revisions to Goal BIO-5 and relevant policies and programs simply clarifies the proposed residential density and commercial floor area ratio (FAR) are to be calculated at the "lowest" rather than the "low" end of the applicable ranges.

With regards proposed land use at the St. Vincent's and Silveira and San Rafael Rock Quarry properties, it should be noted that policies such as SV-2.5 (Establish Land Use Categories on page 3-226) and PA-3.2 (Designate Land Use in Point San Pedro on page 3-232) provide specific direction for potential residential density and commercial FAR for these areas. The language in Goal BIO-5 directing lands in the Baylands Corridor to be calculated at the lowest end of the applicable ranges was not intended to apply to these properties.

SECTION C: AMENDMENT TO THE LOCATION OF THE BAYLANDS CORRIDOR AT THE SAN RAFAEL ROCK QUARRY

Quarrying activities have occurred on the San Rafael Rock Quarry (SRRQ) for over 100 years when the McNear family acquired the property and began operating a brickyard using the clay and shale deposits found there. The property, which has been extensively used for brick making and quarrying, is primarily industrial in character.

The Baylands Corridor at the SRRQ includes a series of saltwater and freshwater marshes located between McNear's Brickyard and North San Pedro road along the northern property boundary, as well as the McNear's Brickyard facilities, an industrial area featuring a number of factory and warehouse buildings of various ages, smokestacks from the brick kilns, and open storage areas of finished brick products and raw materials, as well as a caretaker's residence. In addition, the majority of the Baylands Corridor in this area includes a 100 foot shoreline buffer along San Pablo Bay consistent with the Bay Conservation and Development Commission's jurisdiction.

Discussion

An adjustment of the Baylands Corridor boundary is proposed at the San Rafael Rock Quarry to reflect the site's existing conditions and remove already developed areas. Maps 2-5a and 2-5b describe the existing location of the Baylands Corridor (Attachment 3). The boundary adjustment would remove the McNear's Brickyard facilities and other ancillary uses from the Baylands Corridor, pulling the boundary back to the edge of the existing marshlands. The marshlands are not removed from the Baylands Corridor, and a 100 foot shoreline buffer is maintained.

On November 10, 2008, the Planning Commission recommended approval of the proposed adjustment to the Baylands Corridor boundary at the SRRQ with the modification to retain the two roads accessing the property from North San Pedro Road within the Baylands Corridor to be consistent with the treatment of other roads, which are included in the Baylands Corridor (Attachment 4). In consideration of the property's unique circumstance as being one of Marin's few remaining large sites suitable for reuse and redevelopment, as well as the historic alterations from past quarrying and construction activities that have disturbed the site, staff's recommendation to the Planning Commission included the removal of these two roads as shown in Attachment 5. Furthermore, these roads are identified as primary access routes for the site's future reclamation in the SRRQ Amended Reclamation Plan and Amended Surface Mining and Quarrying Permit Draft Environmental Impact Report, which also includes various mitigation measures to protect the wetlands found on the site. If these roads are removed from the Baylands Corridor, the CWP's policies requiring wetland protection measures will fully apply to the wetlands these roads bisect.

Please note that the Addendum has been modified on pages 4 and 5 to clarify language regarding the use and location of structures on the property (Attachment 13).

If adopted, the Point San Pedro Land Use Policy Map 3.2 (Attachment 6) and Map 1-2, Environmental Corridors (Attachment 7), would also be revised to reflect the amended location of the Baylands Corridor for this location.

SECTION D: AMENDMENT TO THE LOCATION OF THE BAYLANDS CORRIDOR AT SAN QUENTIN STATE PRISON

The Baylands Corridor at the San Quentin State Prison site encompasses approximately a 30 acre area of fill that was once a marshy inlet known as the “Bay of the Skulls” located along the southwestern portion of the property, in addition to a 100 foot shoreline buffer along San Francisco Bay (Attachment 3). The proposed amendment would remove this fill area from the Baylands Corridor (Attachment 8), which is currently occupied by portions of a minimum security inmate complex (known as “the Ranch”) that houses 250 inmates, an abandoned wastewater treatment facility, and abandoned detergent factory, a materials recycling and salvage facility, and maintenance and storage areas.

Discussion

The proposed amendment is intended to more accurately reflect existing conditions of the site, which would remove an already developed and disturbed area that has historically been altered by past grading and construction activities including the placement of fill and brick materials from both a nearby former brick making operation and from the prison itself. Similar to the San Rafael Rock Quarry, the area to be removed provides limited, if any, habitat value. The 100 foot shoreline buffer along San Francisco Bay would be maintained.

If adopted, the San Quentin Land Use Policy Map 5.3 (Attachment 9) and Map 1-2, Environmental Corridors (Attachment 7), would also be revised to reflect the amended location of the Baylands Corridor for this location.

CONCLUSION:

The proposed amendments to the Marin Countywide Plan are necessary or appropriate to clarify, correct, and improve the readability of select CWP polices, programs, and maps. The revisions correct grammatical mistakes and also update language, while other text changes allow the County to seek federal disaster relief funding and clarify that residential and commercial FAR are to be calculated at the “lowest” rather than the “low” end of the applicable land use density ranges. With regards to map changes, the Nicasio Land Use Map 7.9 is updated to change an incorrect land use designation, while the Tamalpais Land Use Map 6.1.2 is revised to indicate the annexation of parcels to the City of Mill Valley. Modifications to the Baylands Corridor Maps 2-5a and 2-5b are intended to more accurately reflect existing site conditions at the San Rafael Rock Quarry and San Quentin State Prison, removing already developed and disturbed areas with limited habitat value from the Baylands Corridor.

FISCAL IMPACT: The proposed amendments would not affect the Community Development Agency budget.

Respectfully submitted,

Reviewed by:

Kristin Drumm, AICP
Senior Planner

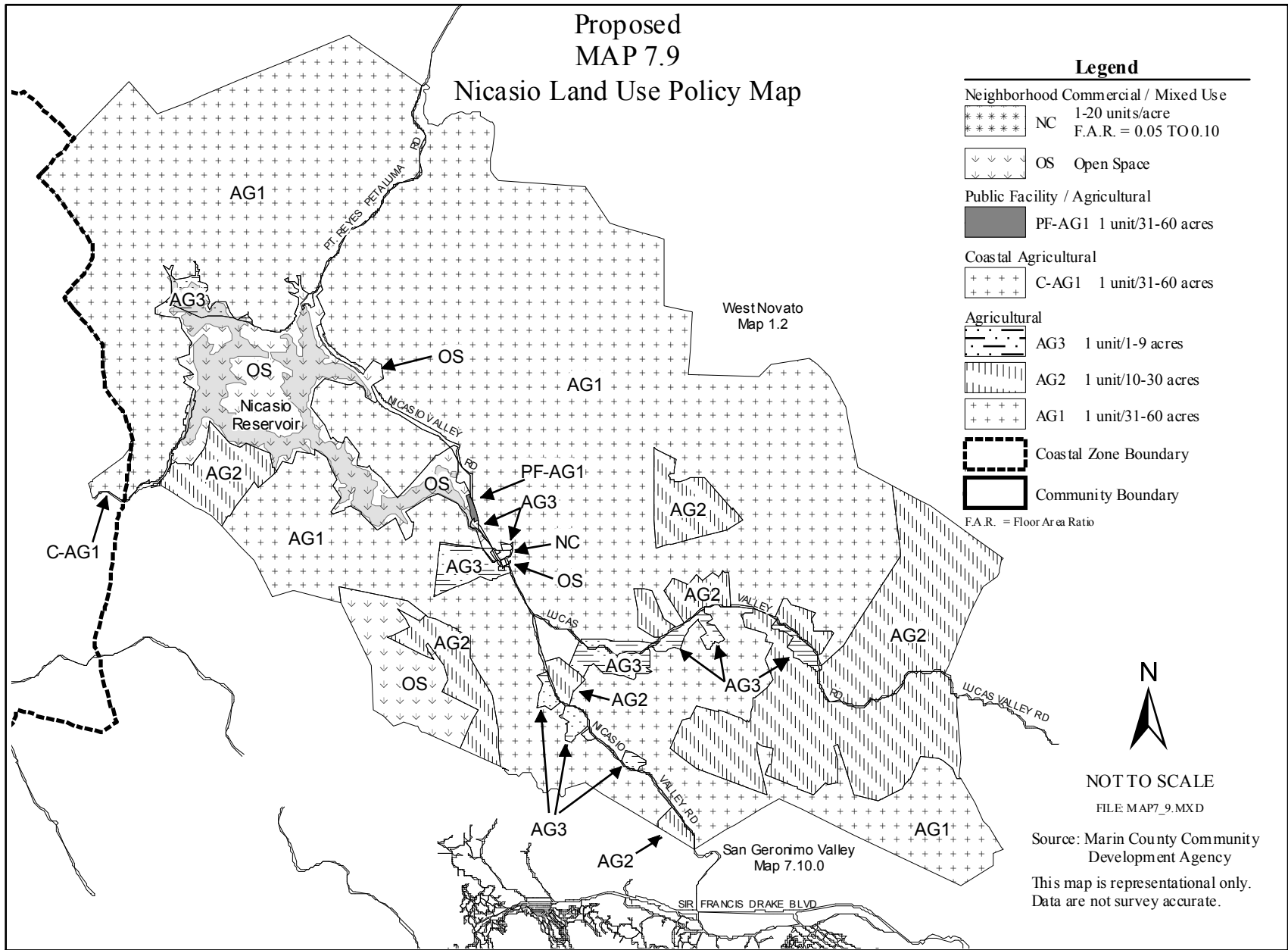
Brian C. Crawford
Director

Attachments:

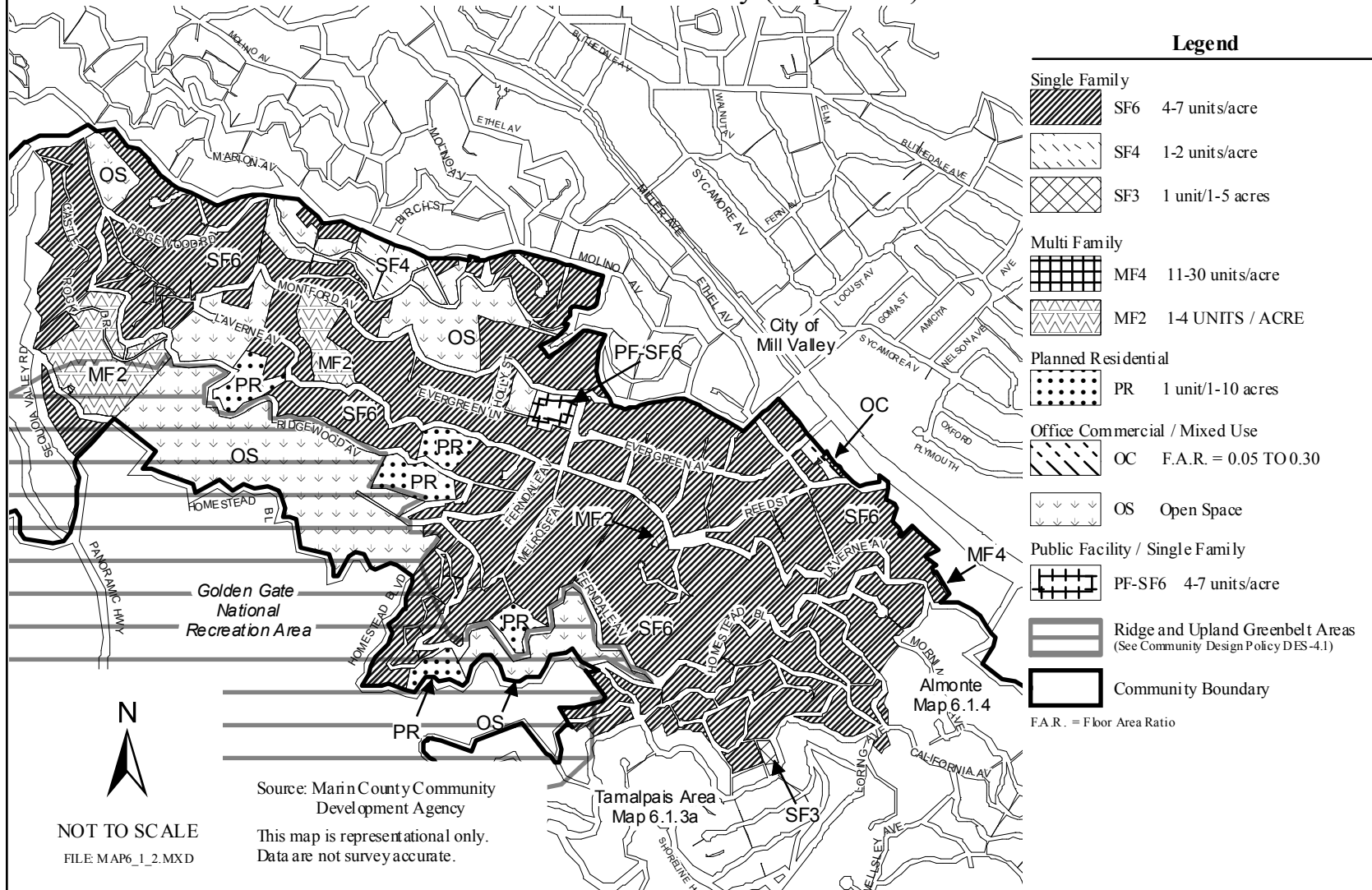
1. Proposed Nicasio Land Use Policy Map 7.9
2. Proposed Tamalpais Land Use Policy Map 6.1.2
3. Map 2-5a and 2-5b, Baylands Corridor
4. Planning Commission approved Baylands Corridor Boundary Adjustment at the San Rafael Rock Quarry
5. Proposed Baylands Corridor Boundary Adjustment at the San Rafael Rock Quarry
6. Proposed Point San Pedro Land Use Policy Map 3.2
7. Map 1-2, Environmental Corridors
8. Planning Commission approved Baylands Corridor Boundary Adjustment at San Quentin State Prison
9. Proposed San Quentin Land Use Policy Map 5.3
10. Planning Commission Resolution Adopting the 2008 Addendum to the 2007 Marin Countywide Plan Final Environmental Impact Report and Amendment to the 2007 Marin Countywide Plan
11. Planning Commission Resolution Adopting the Resolution approving the Amendment to the 2007 Marin Countywide Plan Maps 2-5a and 2-5b, Baylands Corridor, at the San Rafael Rock Quarry
12. Proposed Resolution Adopting the 2008 Addendum to the 2007 Marin Countywide Plan Final Environmental Impact Report and Amendment to the 2007 Marin Countywide Plan
13. 2008 Addendum to the 2007 Marin Countywide Plan Final Environmental Impact Report
14. Letter from Farella Braun + Martel dated November 19, 2008

Proposed
MAP 7.9

Nicasio Land Use Policy Map



Proposed
 MAP 6.1.2
 Tamalpais Area Land Use Policy Map,
 Homestead Valley (Map 2 of 5)



Legend

- Single Family**
 - SF6 4-7 units/acre
 - SF4 1-2 units/acre
 - SF3 1 unit/1-5 acres
 - Multi Family**
 - MF4 11-30 units/acre
 - MF2 1-4 UNITS / ACRE
 - Planned Residential**
 - PR 1 unit/1-10 acres
 - Office Commercial / Mixed Use**
 - OC F.A.R. = 0.05 TO 0.30
 - OS Open Space**
 - Public Facility / Single Family**
 - PF-SF6 4-7 units/acre
 - Ridge and Upland Greenbelt Areas**
 (See Community Design Policy DES-4.1)
 - Community Boundary**
- F.A.R. = Floor Area Ratio

N
 NOT TO SCALE
 FILE MAP6_1_2.MXD

Source: Marin County Community
 Development Agency
 This map is representational only.
 Data are not survey accurate.





Tamalpais Area
 Map 6.1.3a

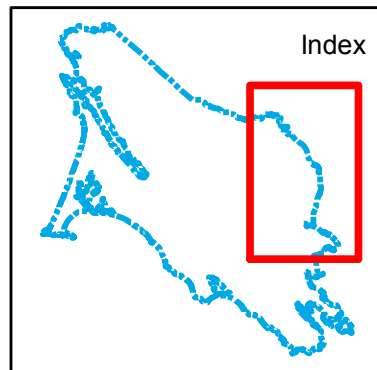
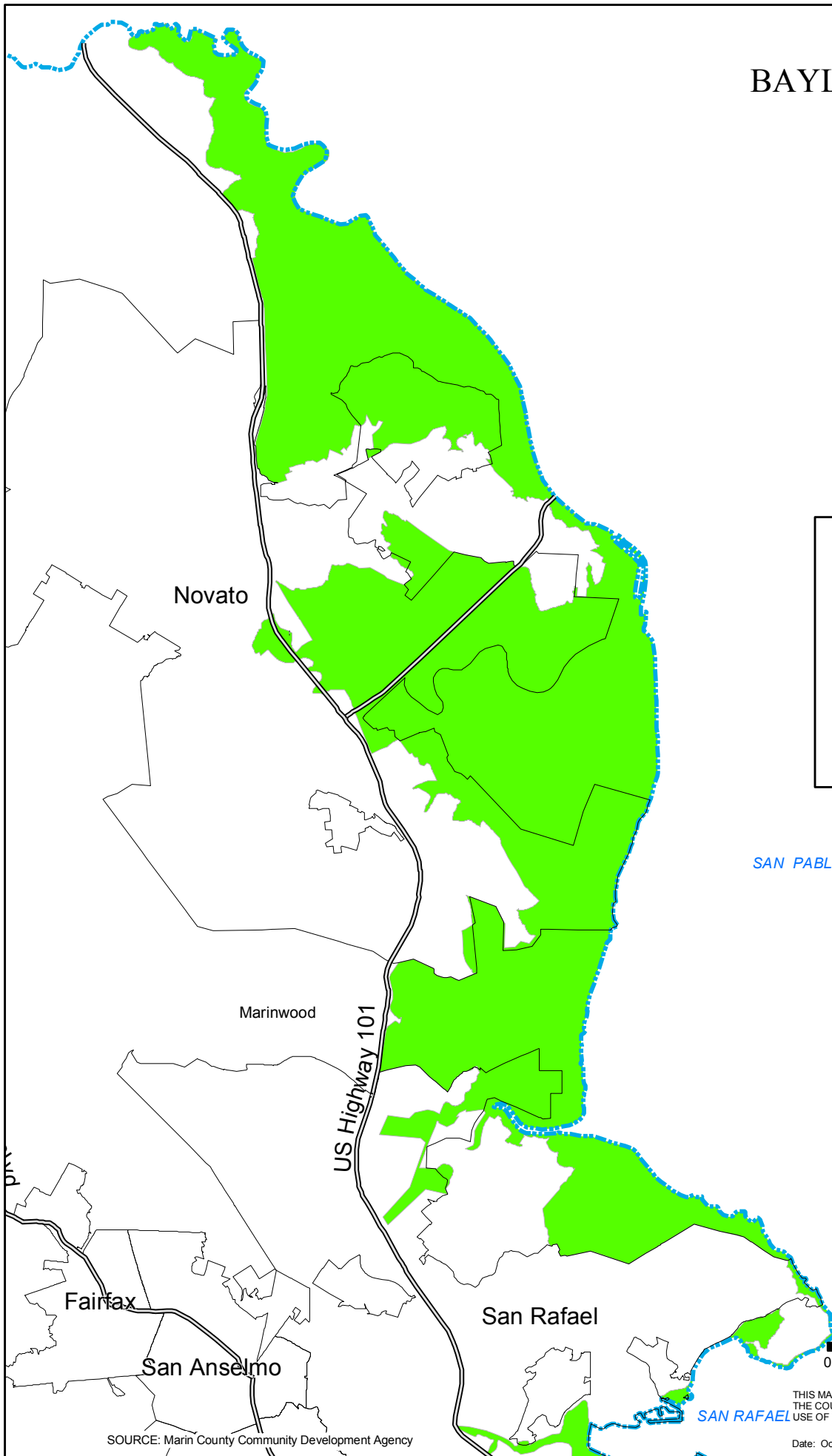
Almonte
 Map 6.1.4

SF3

MAP 2-5a BAYLANDS CORRIDOR

Legend

-  County Boundary
-  City Boundary
-  Highways and Major Roads
-  Baylands Corridor



SAN PABLO BAY

US Highway 101

Novato

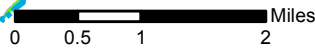
Marinwood

Fairfax

San Anselmo

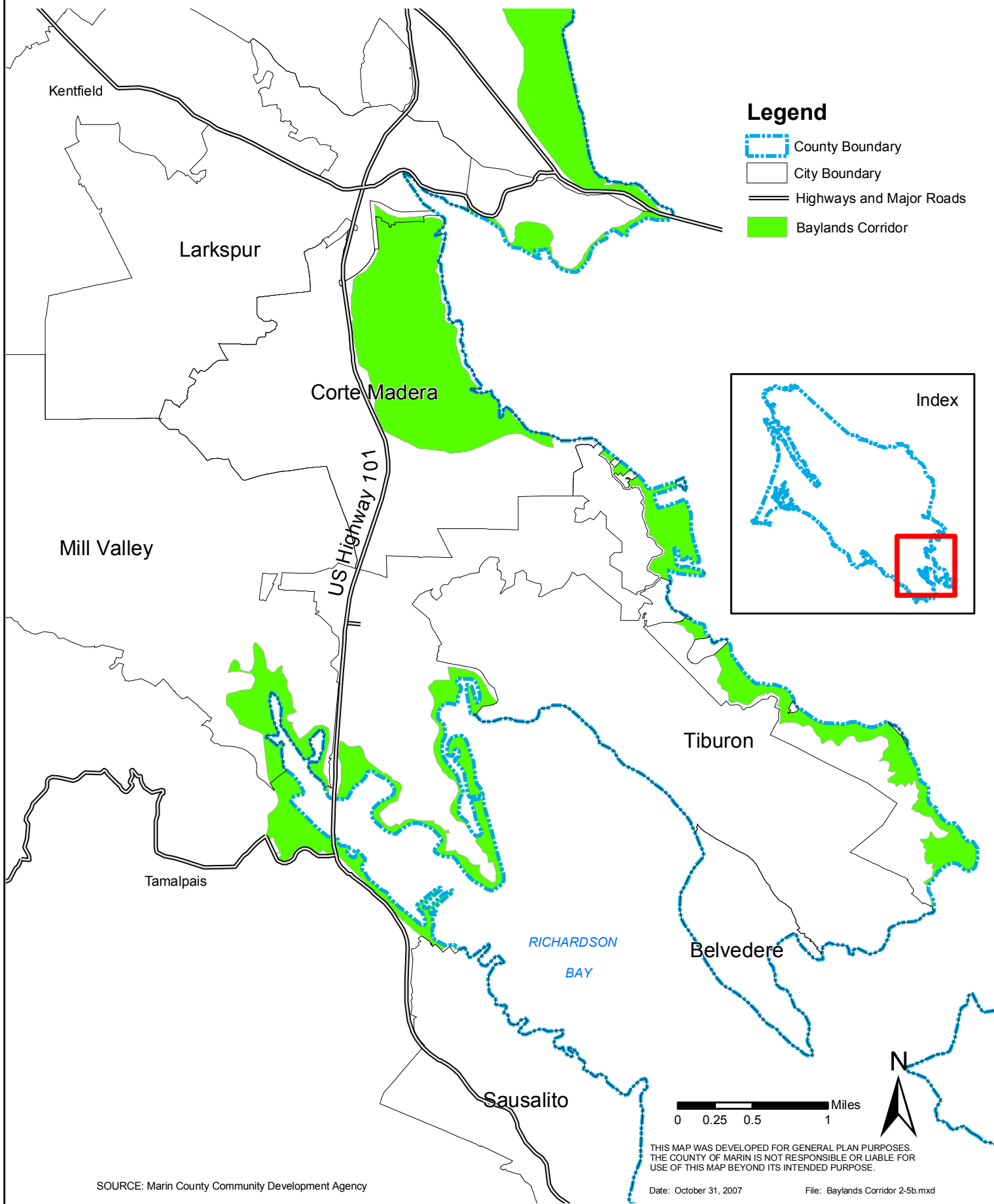
San Rafael

SAN RAFAEL



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THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR
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MAP 2-5b BAYLANDS CORRIDOR



SOURCE: Marin County Community Development Agency

THIS MAP WAS DEVELOPED FOR GENERAL PLAN PURPOSES.
THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR
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Date: October 31, 2007

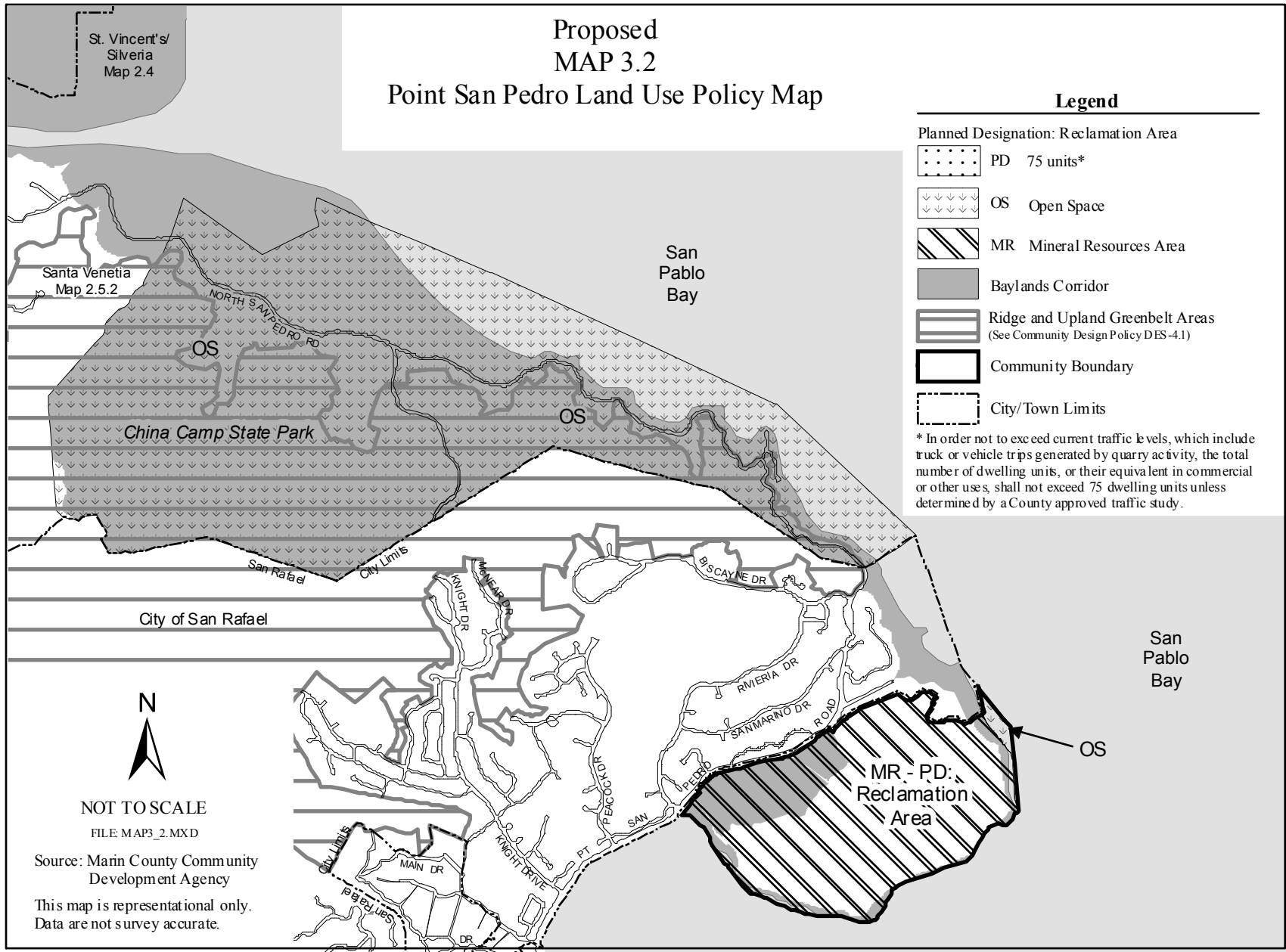
File: Baylands Corridor 2-5b.mxd



* (see legend)



Proposed MAP 3.2 Point San Pedro Land Use Policy Map



Legend

- Planned Designation: Reclamation Area
- PD 75 units*
- OS Open Space
- MR Mineral Resources Area
- Baylands Corridor
- Ridge and Upland Greenbelt Areas
(See Community Design Policy DES-4.1)
- Community Boundary
- City/Town Limits

* In order not to exceed current traffic levels, which include truck or vehicle trips generated by quarry activity, the total number of dwelling units, or their equivalent in commercial or other uses, shall not exceed 75 dwelling units unless determined by a County approved traffic study.

St. Vincent's/
Silveria
Map 2.4

Santa Venetia
Map 2.5.2

China Camp State Park

San Pablo Bay

San Pablo Bay



NOT TO SCALE

FILE MAP3_2.MXD

Source: Marin County Community
Development Agency

This map is representational only.
Data are not survey accurate.

MR - PD:
Reclamation
Area

OS

City of San Rafael

NORTH SAN PEDRO RD

San Rafael

City Limits

B/S CAYNE DR

RIVERIA DR

SAN MARINO DR

PONTO

PEDRO

SAN

PT

KING DR

DR

DR

MAIN DR

SAN RAFAEL

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MAP 1-2 ENVIRONMENTAL CORRIDORS





Legend

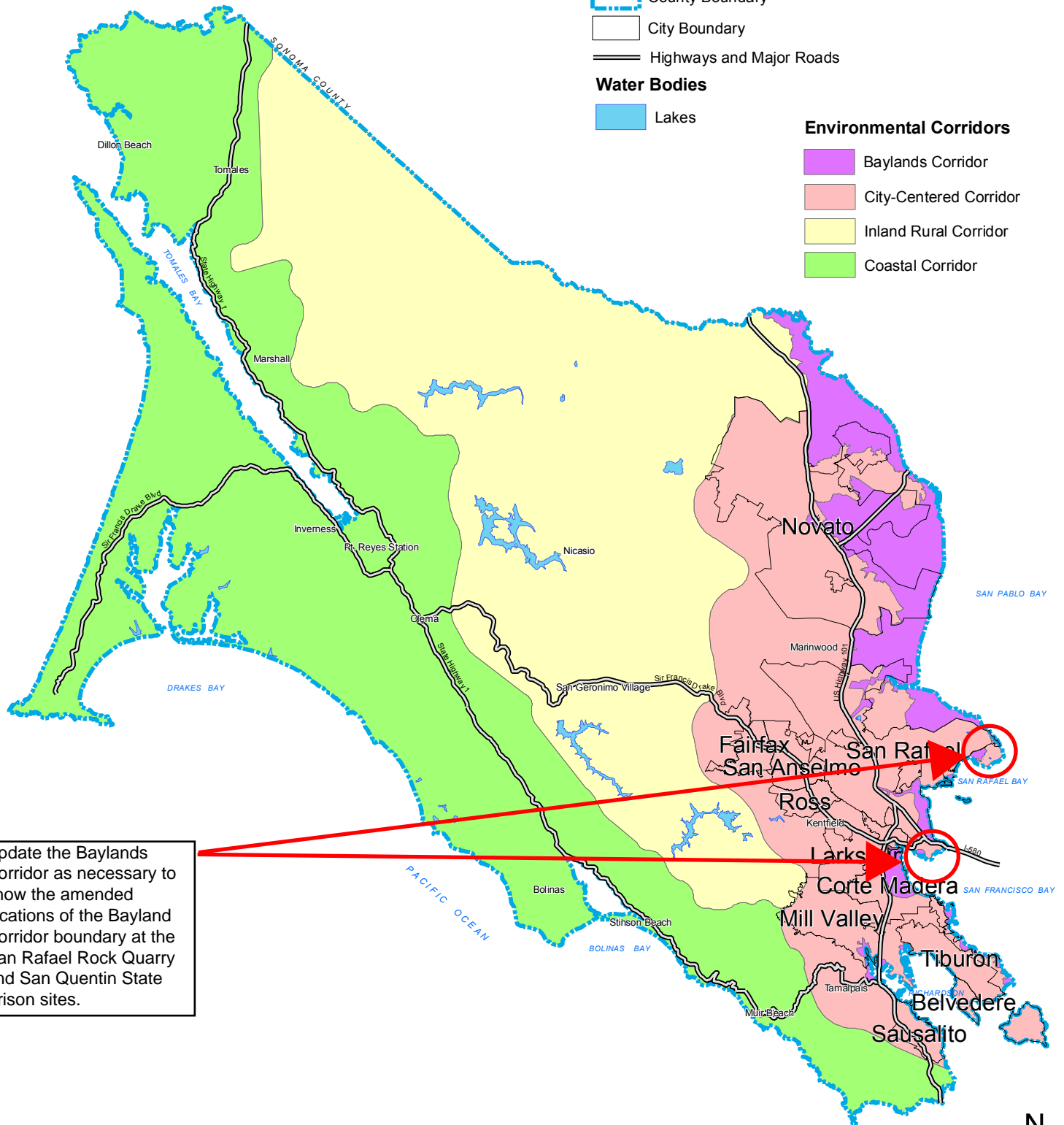
-  County Boundary
-  City Boundary
-  Highways and Major Roads

Water Bodies

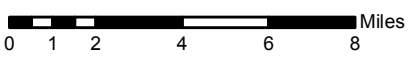
-  Lakes

Environmental Corridors

-  Baylands Corridor
-  City-Centered Corridor
-  Inland Rural Corridor
-  Coastal Corridor



Update the Baylands Corridor as necessary to show the amended locations of the Bayland Corridor boundary at the San Rafael Rock Quarry and San Quentin State Prison sites.




THIS MAP WAS DEVELOPED FOR GENERAL PLAN PURPOSES. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE.


SOURCE: County of Marin

Date: October 22, 2007 File: EnvCorr with Bayland 1-2.mxd



Legend

 Existing Baylands Corridor










 Proposed Baylands Corridor




Date: September 29, 2008
This map is representational only. Data are not survey precise.

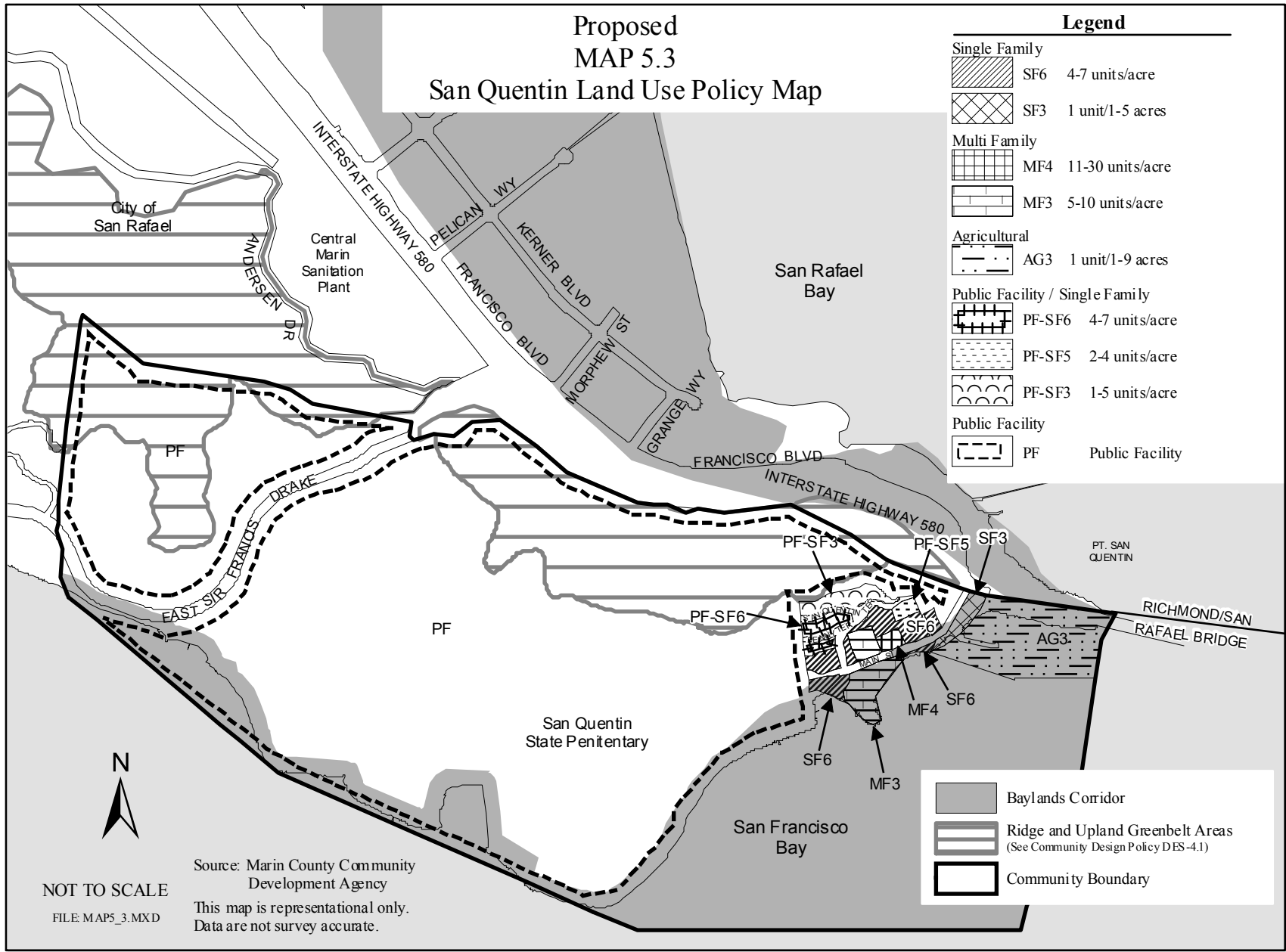


Proposed MAP 5.3 San Quentin Land Use Policy Map

Legend

- Single Family**
-  SF6 4-7 units/acre
-  SF3 1 unit/1-5 acres
- Multi Family**
-  MF4 11-30 units/acre
-  MF3 5-10 units/acre
- Agricultural**
-  AG3 1 unit/1-9 acres
- Public Facility / Single Family**
-  PF-SF6 4-7 units/acre
-  PF-SF5 2-4 units/acre
-  PF-SF3 1-5 units/acre
- Public Facility**
-  PF Public Facility

-  Baylands Corridor
-  Ridge and Upland Greenbelt Areas
(See Community Design Policy DES-4.1)
-  Community Boundary



NOT TO SCALE
FILE: MAP5_3.MXD

Source: Marin County Community Development Agency
This map is representational only.
Data are not survey accurate.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN AMENDMENT TO THE 2007 MARIN COUNTYWIDE PLAN MAPS 2-5 A AND B, BAYLANDS CORRIDOR, AT THE SAN RAFAEL ROCK QUARRY

SECTION I: FINDINGS

WHEREAS, the Marin County Planning Commission hereby finds and declares the following:

- I. WHEREAS, the Marin County Board of Supervisors adopted the Marin Countywide Plan on November 6, 2007. The overarching theme presented in the Plan is planning sustainable communities.
- II. WHEREAS, the Marin Countywide Plan is a comprehensive, long term general plan for the physical development of Marin County and establishes an overall framework and set of goals for countywide development in the unincorporated area of the County.
- III. WHEREAS, the Marin County Community Development Agency initiated the proposed amendments to the Marin Countywide Plan. The Marin Countywide Plan includes policies to protect and to preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The project includes a minor change to the location of the Baylands Corridor boundary at the San Rafael Rock Quarry to more accurately reflect existing physical conditions.
- IV. WHEREAS pursuant to Marin County Code Section 22.116.050, the following findings can be made to approve the proposed amendments to the Marin Countywide Plan:
 - A. The proposed amendments are internally consistent with the Countywide Plan and Community Plans because the amendments are necessary to clarify, correct typographical errors, and improve the readability of certain Plan policies, programs, and maps.
 - B. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
 - C. The site is physically and environmentally suitable for the requested/anticipated land use development, including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints.
- V. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the Marin Countywide prior to the adoption of the Marin Countywide Plan.
- VI. WHEREAS, the certified EIR evaluated the potential environmental effects that could result from implementation of the Marin Countywide Plan. The proposed amendments to the Marin Countywide Plan will not result in substantial changes in the Plan or in substantial changes to the circumstances under which the Countywide Plan will be undertaken or significant new information of substantial importance and will not result in new or more severe impacts or require new mitigation measures. Consistent with Sections 16162 and 15164 of the State CEQA Guidelines, an Addendum to the previously certified EIR has been prepared.

VII. WHEREAS, the Marin County Planning Commission conducted a public hearing on October 13, 2008 and October 27, 2008 to consider the proposed Amendment to the Marin Countywide Plan Maps 2-5a and b, Baylands Corridor, at the San Rafael Rock Quarry.

SECTION II: AMENDMENTS TO THE MARIN COUNTYWIDE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission reports and recommends that the Marin County Board of Supervisors adopt the amendment to the 2007 Marin Countywide Plan contained in Exhibit "A" of this Resolution.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 13th day of October, 2008 by the following vote to wit:

AYES:

NOES:

ABSENT:

RANDY GREENBERG, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Michelle Reed
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN AMENDMENT TO THE 2007 MARIN COUNTYWIDE PLAN MAPS 2-5 A AND B, BAYLANDS CORRIDOR, AT THE SAN RAFAEL ROCK QUARRY

SECTION I: FINDINGS

WHEREAS, the Marin County Planning Commission hereby finds and declares the following:

- I. WHEREAS, the Marin County Board of Supervisors adopted the Marin Countywide Plan on November 6, 2007. The overarching theme presented in the Plan is planning sustainable communities.
- II. WHEREAS, the Marin Countywide Plan is a comprehensive, long term general plan for the physical development of Marin County and establishes an overall framework and set of goals for countywide development in the unincorporated area of the County.
- III. WHEREAS, the Marin County Community Development Agency initiated the proposed amendments to the Marin Countywide Plan. This revision is part of a package of amendments constituting one amendment to the Countywide Plan. The Marin Countywide Plan includes policies to protect, preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The project includes a minor change to the location of the Baylands Corridor boundary at the San Rafael Rock Quarry to more accurately reflect existing physical conditions.
- IV. WHEREAS pursuant to Marin County Code Section 22.116.050, the following findings can be made to approve the proposed amendments to the Marin Countywide Plan:
 - A. The proposed amendments are internally consistent with the Countywide Plan and Community Plans because the amendments are necessary to clarify, correct typographical errors, and improve the readability of certain Plan policies, programs, and maps.
 - B. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
 - C. The site is physically and environmentally suitable for the requested/anticipated land use development, including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints.
- V. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the Marin Countywide prior to the adoption of the Marin Countywide Plan.
- VI. WHEREAS, the certified EIR evaluated the potential environmental effects that could result from implementation of the Marin Countywide Plan. The proposed amendments to the Marin Countywide Plan will not result in substantial changes in the Plan or in substantial changes to the circumstances under which the Countywide Plan will be undertaken or significant new information of substantial importance and will not result in new or more severe impacts or

require new mitigation measures. Consistent with Sections 16162 and 15164 of the State CEQA Guidelines, an Addendum to the previously certified EIR has been prepared.

VII. WHEREAS, the Marin County Planning Commission conducted a public hearing on October 13, 2008 and October 27, 2008 to consider the proposed Amendment to the Marin Countywide Plan Maps 2-5a and b, Baylands Corridor, at the San Rafael Rock Quarry.

SECTION II: AMENDMENTS TO THE MARIN COUNTYWIDE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission reports and recommends that the Marin County Board of Supervisors adopt the amendment to the 2007 Marin Countywide Plan contained in Exhibit "A" of this Resolution.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 27th day of October, 2008 by the following vote to wit:

AYES: Steve Thompson, Randy Greenberg, Wade Holland, Pete Theran

NOES: Katie Crecelius, Don Dickenson

ABSENT: Joan Lubamersky

RANDY GREENBERG, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Michelle Reed
Recording Secretary

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE 2008 ADDENDUM TO THE 2007 MARIN COUNTYWIDE PLAN FINAL ENVIRONMENTAL IMPACT REPORT AND AMENDMENT TO THE 2007 MARIN COUNTYWIDE PLAN

SECTION I: FINDINGS

WHEREAS, the Marin County Board of Supervisors hereby finds and declares the following:

- I. WHEREAS, the Marin County Board of Supervisors adopted the Marin Countywide Plan on November 6, 2007. The overarching theme presented in the Plan is planning sustainable communities.
- II. WHEREAS, the Marin Countywide Plan is a comprehensive, long term general plan for the physical development of Marin County and establishes an overall framework and set of goals for countywide development in the unincorporated area of the County.
- III. WHEREAS, the Marin County Community Development Agency initiated the proposed amendments to the Marin Countywide Plan. This package of revisions constitutes one amendment to the Marin Countywide Plan. The Marin Countywide Plan includes policies to protect and to preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The project includes proposed technical and clerical corrections to certain Countywide Plan policies and maps to correct and improve their readability and clarity. The technical corrections range from out of sequence program numbering and grammatical mistakes to minor text revisions to provide additional clarification and consistent use of terminology regarding the lowest end of the Countywide Plan density range for land use designations. Another amendment calls for incorporating the Marin County Operational Area Hazard Mitigation Plan by reference into the Plan’s Environmental Hazards element.

In addition, amendments to the Nicasio Land Use Policy Map 7.9, Tamalpais Land Use Policy Map 6.1.2, and the Baylands Corridor Maps 2-5a and 2-5b are proposed. A revision to Map 7.9 in the Nicasio planning area is needed to change a land use designation incorrectly applied to Assessors Parcel Number 121-050-42, from PF-AG1 to AG1, while Map 6.1.2 is updated to reflect annexation of land to the City of Mill Valley. Minor changes to the location of the Baylands Corridor boundary are also proposed at the San Rafael Rock Quarry and San Quentin State Prison sites to more accurately reflect existing physical conditions.

- IV. WHEREAS pursuant to Marin County Code Section 22.116.050, the following findings can be made to approve the proposed amendments to the Marin Countywide Plan:
 - A. The proposed amendments are internally consistent with the Countywide Plan and Community Plans because the amendments are necessary to clarify, correct typographical errors, and improve the readability of certain Plan policies, programs, and maps.
 - B. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

- C. The site is physically and environmentally suitable for the requested/anticipated land use development, including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints.
- V. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the Marin Countywide prior to the adoption of the Marin Countywide Plan.
- VI. WHEREAS, the certified EIR evaluated the potential environmental effects that could result from implementation of the Marin Countywide Plan. The proposed amendments to the Marin Countywide Plan will not result in substantial changes in the Plan or in substantial changes to the circumstances under which the Countywide Plan will be undertaken or significant new information of substantial importance and will not result in new or more severe impacts or require new mitigation measures. Consistent with Sections 16162 and 15164 of the State CEQA Guidelines, an Addendum to the previously certified EIR has been prepared.
- VII. WHEREAS, the Marin County Planning Commission conducted a public hearing on October 13, 2008 and October 27, 2008 to consider the proposed Amendment to the Marin Countywide Plan.

SECTION II: AMENDMENTS TO THE MARIN COUNTYWIDE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors reports and recommends adoption of the 2008 Addendum to the 2007 Marin Countywide Plan Final Environmental Impact Report and amendment to the 2007 Marin Countywide Plan contained in Exhibit "A" of this Resolution.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 9th day of December, 2008 by the following vote to wit:

AYES:

NOES:

ABSENT:

CHARLES MCGLASHAN, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

MATTHEW H. HYMEL
Clerk of the Board

ADDENDUM TO THE 2007 MARIN COUNTYWIDE PLAN FINAL ENVIRONMENTAL IMPACT REPORT

INTRODUCTION

An Addendum to the 2007 Marin Countywide Plan Final EIR has been prepared for the proposed 2008 Marin Countywide Plan amendments.

This Addendum is intended to address changes to the Marin Countywide Plan (CWP) that would make specific technical correction to the CWP, and amendments to the Baylands Corridor at the San Rafael Rock Quarry and at San Quentin State Prison.

This Addendum is not being circulated pursuant to Section 15164(b) of the *State CEQA Guidelines* because only minor technical changes or additions are necessary to modify the Final EIR regarding potential environmental impacts. The Addendum will be considered with the Final EIR by the decision makers prior to taking action on the merits of the proposed Countywide Plan Amendments. The Addendum includes only those topical sections where changes or additions are proposed. The Addendum and the Final EIR are on file in the Community Development Agency, Planning Division (3501 Civic Center Drive, Room 308, San Rafael, California 94903) and may be reviewed weekdays between the hours of 8:00 a.m. to 4:00 p.m.

Previous Environmental Review

In 2007, Marin County certified the Final Environmental Impact Report for the 2007 Marin Countywide Plan (Final EIR) ¹ and adopted the Marin Countywide Plan (CWP).

The California Environmental Quality Act (CEQA) provides for the preparation of an addendum as a way of making minor corrections in EIRs and Negative Declarations without recirculating the EIR or Negative Declaration. Section 15164 of the *State CEQA Guidelines* describes when it is appropriate to prepare an addendum. Section 15164 states that a lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some change or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. An addendum to an adopted Negative Declaration may be prepared if only minor technical changes or additions are necessary. Section 15162 of the *State CEQA Guidelines* describes those situations when a subsequent EIR or Negative Declaration shall be prepared. Specifically, Section 15162 provides:

- (a) When an EIR has been certified or a Negative Declaration adopted for a project no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

¹ Marin County Board of Supervisors Resolution No. 2007 - 147, A Resolution Certifying the Final Environmental Impact Report for the 2007 Marin Countywide Plan, November 6, 2007.

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternative previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
- (b) If changes to a project or its circumstances occur or new information becomes available after adoption of a Negative Declaration, the lead agency shall prepare a subsequent EIR if required under subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent Negative Declaration, an addendum, or no further documentation.

As discussed in this Addendum, with the 2008 CWP Amendments there will be no new significant environmental effects or a substantial increase in the severity of previously identified significant effects; there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Final EIR was certified; there are no significant effects not discussed in the previous Final EIR; there are no significant effects previously examined that will be substantially more severe than shown in the Final EIR; there are no mitigation measures or alternatives previously found not to be feasible that would in fact be feasible, and would substantially reduce one or more significant effects of the project; and there are no mitigation measures or alternatives which are considerably different from those analyzed in the Final EIR which would substantially reduce one or more significant effects on the environment. Therefore, Marin County has determined that, because Section 15162 of the *State CEQA Guidelines* does not apply, a subsequent EIR is not required.

As discussed above, Section 15164 states that a lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some change or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Marin County may, therefore, proceed with processing an addendum for the 2007 CWP Amendments.

This addendum concludes that adoption of the 2008 CWP Amendments would not generate any new significant environmental effects beyond those already evaluated in the Final EIR.

PROPOSED PROJECT

The proposed amendments to the CWP consist of:

- Several “technical corrections” to the policies, programs, and the text of the CWP.

A complete list of the proposed technical corrections is in the appendix.

- An amendment to the location of the Baylands Corridor at the San Rafael Rock Quarry

It is proposed to revise Map 2.5a (Baylands Corridor) at the San Rafael Rock quarry. In addition the Point San Pedro Land Use Policy Map 3.2 and Map 1-2 Environmental Corridors, would be revised to reflect the amended location of the Baylands Corridor for this location.

The proposed amendment to the Baylands corridor is shown in the appendix.

- An amendment to the location of the Baylands Corridor at San Quentin State Prison.

It is proposed to revise Map 2.5b (Baylands Corridor) at the San Quentin State Prison. In addition the San Quentin Land Use Policy Map 5.3 and Map 1-2 Environmental Corridors would be revised to reflect the amended location of the Baylands Corridor for this location.

The proposed amendment to the Baylands corridor is shown in the appendix.

ANALYSIS OF POTENTIAL IMPACTS

The CWP provides policy guidelines for the unincorporated portions of Marin County to direct growth and development. The Final EIR describes the potential environmental effects that could result from implementation of the CWP. Based on a review of the proposed 2008 CWP Amendments the area of greatest potential concern in regard to environmental effects is in regard to biological resources. The analysis below focuses on potential biological impacts of the proposed 2008 CWP Amendments.

Biological Resources

TECHNICAL CORRECTIONS TO POLICIES, PROGRAMS AND TEXT

The proposed technical corrections to the text of the CWP would not result in any new or previously unanticipated impacts to biological resources. The revisions to **Goal BIO-5** and relevant policies and programs regarding the proposed residential density and commercial floor area ratio (FAR) in the Baylands Corridor simply clarifies that these are to be calculated at the “lowest” rather than the “low” end of the applicable ranges. By specifying that the range would be at the lowest density and FAR, the development potential would also be at its lowest levels, and potential impacts on biological resources would be at the lowest allowed levels. Implementation of the relevant policies and programs

in the CWP would continue to require that sensitive biological and wetland resources be identified and protected, and that adequate mitigation be provided where avoidance is infeasible. The remainder of the proposed technical corrections to the text of the CWP are simply corrections to typos and references to USGS “data” rather than specifically “maps”.

REVISION TO THE LOCATION OF THE BAYLANDS CORRIDOR AT THE SAN RAFAEL ROCK QUARRY

The proposed revisions to the map of the Baylands Corridor at the San Rafael Rock Quarry site are intended to remove former baylands that have been filled and developed with urban uses from the Baylands Corridor. To determine whether proposed changes to the Baylands Corridor on the quarry site could result in new significant environmental effects on biological resources or a substantial increase in the severity of previously identified significant effects, available information on known resources were reviewed and a field reconnaissance of the proposed change areas was conducted by Jim Martin, Principal of Environmental Collaborative. Available background information reviewed included the *Draft EIR on the San Rafael Rock Quarry Reclamation Plan*² and *Wetlands Habitat Quality Assessment for the San Rafael Rock Quarry*,³ among other documents. The field reconnaissance survey was conducted on September 15, 2008, and involved an inspection of the proposed change areas in the Baylands Corridor on the Quarry site. While no detailed surveys were conducted, a preliminary wetland assessment was performed and trees were inspected for nests and signs of roosting activity.

The current Baylands Corridor extends along the western edge of the Quarry site across an area that was previously under tidal influence and most likely supported coastal salt marsh. The area has been disturbed over the past 100 years through construction of roadways and berms which have been hydrologically altered the former tidelands. Most of the proposed map changes to the boundary of the Baylands Corridor on the Quarry site involve reducing the aerial extent in areas currently used as roadways or for brick and other industrial uses. These include much of the McNear’s Brickyard used for brick manufacture and storage in the southwestern portion of the site, a man-made pond just south of the entrance to the active quarry which provides water used by the brick operations, and buildings, roads and a parking area associated with or near Marin Exposed Aggregates, a cement casting facility, in the central portion of the site adjacent to the northeast portion of the proposed revision to the Baylands Corridor boundary. The proposed map changes include expansion of the Baylands Corridor in a few locations along the San Pedro Road frontage of the site where existing remnant marshlands were left out of the corridor.

Deleted: for

With the exception of the man-made pond and a man-made drainage ditch along the north side of the access road to the active quarry, no wetland features appear to be located in the areas to be removed from the limits of the current Baylands Corridor. Both of the potential wetland features which would be removed from the revised Baylands Corridor boundaries have been routinely maintained as part of quarry and brickyard operations and appear to have only limited habitat value. These areas have only limited habitat value due to the general lack of vegetation and frequent human disturbance. All of the existing salt marsh, brackish marsh and freshwater marsh that once formed the tidelands on the site

² *Draft EIR on the San Rafael Rock Quarry ARP and AQP*, ESA, February 2008.

³ *Wetlands Habitat Quality Assessment for the San Rafael Rock Quarry*, prepared for San Rafael Rock Quarry, WRA, December 2007.

would be retained in the Baylands Corridor, including marshlands along Point San Pedro Road currently outside the Baylands Corridor. No signs of raptor nests or large rookery or roosting by herons, egrets, or other bird species were observed in the groves of eucalyptus around the perimeter of the marshlands, some of which would be removed with the proposed changes to the Baylands Corridor. Evidence of possible bat roosting activity was observed in at least one of two vacant buildings near Marin Exposed Aggregates and that were once part of a dairy operation at the northern end of the property near Point San Pedro Road, and the *Draft EIR on the San Rafael Rock Quarry* indicates that bats are known to roost in the abandoned kiln chimneys at the brickyard.

Deleted: abandoned

Deleted: marshlands

Given the general developed nature of the area to be removed from the limits of the Baylands Corridor, the existing wildlife habitat value of these areas is low. No new significant environmental effects on biological resources or substantial increase in the severity of previously identified significant effects would occur as a result of the proposed revisions to the map of the Baylands Corridor at the Quarry site. Implementation of the relevant policies and programs in the CWP would continue to require that sensitive biological and wetland resources be identified and protected, and that adequate mitigation be provided where avoidance is infeasible. This would include further detailed surveys as part of any post-reclamation development to confirm presence or absence of any sensitive resources.

For example, **Policies BIO-1.4, BIO-1.5, BIO-1.6, BIO-1.7, BIO-1.8, and BIO-1.9, and Programs BIO-1.e, and BIO-1.f** would serve to protect against habitat degradation through restrictions on inappropriate landscaping, controls on the use of herbicide and insecticides, education and controls on the spread of vegetation and wildlife diseases, and efforts to control and eradicate invasive exotic species. **Policy BIO-2.3** would limit development impacts by restricting or modifying proposed development in areas that contain essential habitat for special-status species or areas containing sensitive natural communities. **Program BIO-2.a** would require a site assessment by a qualified professional where proposed development applications may adversely affect sensitive resources, including occurrences of special-status species and sensitive natural communities. **Program BIO-2.c** would require coordinating County review with that of jurisdictional agencies and requires evidence of compliance with any necessary permits from federal and State agencies prior to issuance of County grading or building permits, which should aid in ensuring that inadvertent impacts are avoided during the permit review and authorization process. **Policy BIO-2.5** would require that important wildlife movement corridors are protected as a condition of discretionary permits, and **Policy BIO-2.4** would require protection of ecotones or natural transitions between habitat types. **Policy BIO-2.6** would restrict development in the vicinity of sensitive habitat during the nesting season, protecting important bird nesting areas. **Policy BIO-2.9** calls for consultation with trustee agencies during environmental review when special-status species may be adversely affected. **Policy BIO-2.10** promotes early consultation at the outset of project planning to ensure that the possible requirements to protect sensitive habitat are incorporated into development plans. **Policy BIO-3.1** would require development to avoid wetland areas so that the existing wetlands and upland buffers are preserved, and calls for creation of a WCA for jurisdictional wetland to be retained. **Policy BIO-3.2** would require thorough mitigation, and specifies replacement ratios of 2:1 or 3:1 where avoidance is not possible.

Although the *Draft EIR on the San Rafael Rock Quarry* has not yet been certified by Marin County, it includes provisions to conduct detailed surveys and provide for protection of any special-status species encountered, including California red-legged frog, western pond turtle, nesting raptors and other birds, roosting bats, and special-status plants. This information would be used to assess any post-reclamation development plans and ensure adequate avoidance or mitigation for identified impacts, and would include consideration of the relationship of occurrences of special-status species to the Baylands Corridor.

REVISION TO THE LOCATION OF THE BAYLANDS CORRIDOR AT THE SAN QUENTIN STATE PRISON

The proposed revisions to the map of the Baylands Corridor at the San Quentin State Prison site would remove former baylands that have been filled and developed with urban uses from the Baylands Corridor. As with the Baylands Corridor mapping for the San Rafael Rock Quarry site, the current boundary of the Baylands Corridor on the San Quentin site was based in large part on mapping of the assumed limits of historic bay marshlands prepared by the San Francisco Estuary Institute. The area of proposed boundary change to the Baylands Corridor on the San Quentin site is now uplands supporting buildings and paved areas, based on a review of an aerial photograph of the area. The area in question appears to have once been a small cove along the edge of the bay. However, the area has been largely filled and developed with institutional uses. Under the proposed revisions to the map, the portion of the former cove that still contains open tidelands would be retained in the Baylands Corridor, together with a buffer area along the shoreline. Because of the developed nature of the area to be removed from the limits of the Baylands Corridor, its existing wildlife habitat value is low. No new significant environmental effects on biological resources or substantial increase in the severity of previously identified significant effects would occur as a result of the proposed revisions to the boundary of the Baylands Corridor on the San Quentin site. As discussed above, implementation of the relevant policies and programs in the CWP would continue to require that sensitive biological and wetland resources be identified and protected, and that adequate mitigation be provided where avoidance is infeasible if the site were to be redeveloped at some point in the future.

Other EIR Impact Areas

In addition to biological resources discussed above, the Final EIR evaluated impacts of implementation of the CWP in the areas of Land Use Population and Housing, Transportation, Air Quality, Noise, Hydrology, Water Quality and Flood Hazards, Geology, Agriculture, Water Supply and Demand, Public Services, Cultural Resources, and Visual Resources.

The proposed technical corrections to the text of the CWP would not result in any new or previously unanticipated impacts to the other impact areas discussed in the Final EIR. The CWP goals, policies, and programs make an inconsistent use of the terms “low” and “lowest” in regard to the low end of the density range. The technical corrections simply clarify the intent of CWP that in order to reduce potential impacts residential densities and commercial floor area ratios (FAR) are to be calculated at the “lowest” rather than the “low” end of the applicable ranges. This change is proposed for **Goal BIO-5**, **Policy CD-1.3**, **Program CD-1.c** and **Program TR-1.e**. As discussed above, **Goal BIO-5** deals with development in the Baylands Corridor. **Policy CD-1.3** is focused on reducing impacts on development sites with sensitive habitat or within the Ridge and Upland Greenbelt, or properties lacking public water or sewer systems. **Program CD-1.c** would amend the County’s Development Code consistent with **Policy CD-1.3**. **Program TR-1.e** would restrict development potential where County Level of Service standards will be exceeded at any intersection or road segment or worsened on any grandfathered segment. Each identified goal, policy, and program is directed at reducing potential environmental impacts.

Exhibit 3.0-5 in the Draft EIR shows the historic and theoretical buildout for housing units and square feet of nonresidential floor area for both the cities and towns plus the unincorporated area of Marin County. The buildout figures are a projection of development which could occur if land vacant in 2005 were fully developed according to the zoning designations of the cities and towns in Marin County and the CWP. The analysis of environmental impacts of implementation of the CWP in the

Final EIR is based on the theoretical buildout of housing units and square feet of nonresidential floor area as described in **Exhibit 3.0-5**.

In preparing the theoretical buildout for the unincorporated area of Marin County the lowest end of applicable CWP density range was assumed.⁴ For Inland Rural or Coastal corridor parcels the lower end of the density range due to environmental constraints and a lack of urban services was assumed. In the Baylands Corridor, the Ridge and Upland Greenbelt area, and for parcels immediately adjacent to the Greenbelt the lower end of the CWP density range was also assumed.

The Final EIR, therefore, already assumes that the buildout for the unincorporated area would occur at the lowest density of applicable CWP density range for certain parcels. The proposed amendment simply clarifies the existing intent of the CWP; this change would not result in new or more severe impacts from what is discussed in the Final EIR.

The remainder of the proposed technical corrections to the text of the CWP are simply corrections to typos and references to USGS "data" and would result in any new or more severe impacts.

As discussed above, the two proposed amendments to the Baylands Corridor (at the San Rafael Rock Quarry and San Quentin State Prison) would recognize existing conditions at both locations. The Baylands Corridor boundary changes would more accurately reflect existing physical conditions at the two locations. Similar to the discussion regarding biological impacts, because these amendments would remove areas from the Baylands Corridor that previously that have been filled and developed with urban uses they would not result in any new or previously unanticipated impacts to the other impact areas discussed in the Final EIR.

⁴ *Land Use Modeling and Buildout Background Report*, Marin County Community Development Agency, Planning Division, October 2006, page 14.

APPENDIX



FARELLA BRAUN + MARTEL LLP

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November 19, 2008

VIA FEDERAL EXPRESS

Charles McGlashan, President,
and Members of the Board of Supervisors
County of Marin
3501 Civic Center Drive, Room 329
San Rafael, CA 94903

Re: Countywide Plan Addendum and Baylands Corridor Revisions

Dear President McGlashan and Members of the Board:

On behalf of the San Rafael Rock Quarry, Inc., The Dutra Group and Dutra Materials, Inc. ("Dutra"), this is to request correction to the proposed Baylands Corridor Map and the Addendum to the Final EIR for the 2007 Countywide Plan as they relate to the Baylands Corridor designation at San Rafael Rock Quarry.

The sole issue is the Planning Commission's October 27, 2008 adoption of a revised Baylands Corridor Map that fails to exclude access roads at San Rafael Rock Quarry: The access road that provides the main entrance to San Rafael Rock Quarry, and the dike and access road that serves McNear's Brickyard. These access roads are unquestionably "developed lands on privately owned parcels" that are properly excluded from the Baylands Corridor. They have existed for nearly a century, and are key for future second use development under the amended reclamation plan, as well as for current operations and flood control.

In comment letters last year, Dutra objected to the Countywide Plan Update's proposed designation of the Baylands Corridor for failure to accurately reflect existing conditions at San Rafael Rock Quarry and to exclude developed lands, including these access roads, consistent with CEQA and the policies and definitions in the Countywide Plan Update. Last December and January, Dutra, Community Development Commission staff and County Counsel discussed and agreed on corrections to the Baylands Corridor Map, including the exclusion of these access roads, subject to approval by the Planning Commission and the Board of Supervisors.

In order to seek to avoid litigation and provide time for action on a Countywide Plan Addendum and revised Map, the County and Dutra entered into a Tolling Agreement, authorized by the Board of Supervisors. Under the terms of the Tolling Agreement, the County agreed to



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Page 2

extend applicable limitations periods to December 31, 2008, and Dutra agreed that it would not file suit against the County unless the County either rejected or failed to approve the proposed corrections to the Baylands Corridor Map by December 17, 2008. The corrected Baylands Corridor Map, dated February 13, 2008, was an attachment to the Third Extension of the Tolling Agreement.¹ Dutra later agreed to the County's proposal for a minor modification along the edge of the marsh at McNear's, as suggested by the County's biologist, and this revision was reflected in a revised Baylands Corridor Map dated September 17, 2008.²

Exclusion of these access roads from the Baylands Corridor was a key issue for Dutra when these issues arose last year. It has reemerged as a key issue – and the sole remaining issue – following the Planning Commission's action last month.

As noted above, the Countywide Plan Update recognizes that “[t]he Baylands Corridor was established to protect important baylands and large adjacent *undeveloped* uplands along San Pablo and San Francisco bays.” (emphasis supplied)³ In defining the Baylands Corridor as it relates to large developed parcels, the Final EIR for the Countywide Plan Update expressly excludes “developed lands on privately owned parcels.”⁴ These access roads are unquestionably “developed lands on privately owned parcels” that have existed for nearly a century and are properly excluded under the policies and definitions of the Countywide Plan Update and Final EIR. California law requires internal consistency with such policies and definitions, and an accurate description of the environmental setting.⁵

Maintenance and improvement of these access roads and the dike will be required for second use development under the current Amended Reclamation Plan of 1982 (ARP82”) and the proposed Amended Reclamation Plan of 2004 (“ARP04”). Review of plans for improvement of the access roads will be addressed in CEQA review of Dutra's final Development Plan for San Rafael Rock Quarry. ARP82 and ARP04 provide that a Development Plan will be submitted and reviewed three (3) years before mining activities are completed.⁶

Regardless of the precise nature of the final Development Plan, improved, multiple points of access to the site will be necessary for the health and safety of the persons who use and enjoy the second use. The access roads also serve a critical role for ongoing uses, and the dike provides flood protection.

¹ A copy of the Third Extension of Dutra and County Tolling Agreement is Attachment 1 hereto.

² A copy of the proposed Baylands Corridor Map, dated September 17, 2008 (with accompanying detail provided by the County on October 14, 2008) is Attachment 2 hereto.

³ See 2007 Countywide Plan at 2-11; see also, *id.*, at 1-2, 3-8.

⁴ See Final EIR for Countywide Plan Update at 3.0-8.

⁵ See Government Code §65300 and Cal. Code of Regulations §§ 15126, 15166.

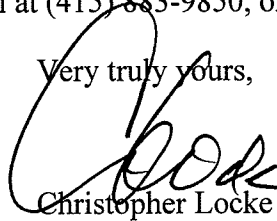
⁶ See San Rafael Rock Quarry Amended Reclamation Plan of 2004, at page 47.



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Page 3

We respectfully request the Board's consideration of this request to exclude these access roads and other developed areas of San Rafael Rock Quarry from the revised Baylands Corridor, and to adopt the Baylands Corridor designation reflected in the maps accompanying this letter as Attachment 2. Please contact Al Cornwell at (415) 883-9850, or me, with any questions.

Very truly yours,



Christopher Locke

RCL:jjl

Attachments

cc: Alex Hinds, Marin Community Development Agency
Kristin Drumm, Community Development Agency
Clem Shute, Shute, Mihaly & Weinberger LLP
Lee Selna, The Dutra Group
Al Cornwell, CSWSt2

ATTACHMENT 1

THIRD EXTENSION
OF
DUTRA AND COUNTY TOLLING AGREEMENT

A Tolling Agreement ("Agreement") was entered into on December 6, 2007 between the San Rafael Rock Quarry, Inc., The Dutra Group and Dutra Materials, Inc. ("Dutra") on the one hand, and the County of Marin ("County") on the other hand, by and through their undersigned counsel. An executed copy of that Agreement is attached hereto and incorporated herein. Extensions of the Tolling Agreement were entered into on December 12, 2007 and February 15, 2008 between the same Parties by and through their undersigned counsel. Executed copies of those extensions are attached hereto and incorporated herein ("Extensions"). Dutra and the County are collectively referred to as "the Parties" to the Agreement and the Extensions.

The Parties now desire to further extend the Agreement to facilitate their efforts to resolve the dispute and to provide time for the Board of Supervisors to act on a proposed resolution, and do so by this "Third Extension," which is intended to avoid the time and expense of litigation without prejudice to the rights, interests and remedies of the Parties, and each of them.

I. THIRD EXTENSION OF AGREEMENT

- A. The Parties to the Agreement desire to continue their effort to resolve their disagreement and facilitate the Board of Supervisor's consideration of approval of an amendment to the 2007 Countywide Plan's Baylands Corridor Map, as provided herein, without Litigation.
- B. Pursuant to Paragraph II(I) of the Agreement, the provisions of II(A) through II(D) are hereby modified to provide that "December 31, 2008" is substituted for "December 12, 2007". This substitution of dates incorporates the understanding of the Parties that Dutra has until 5:00 p.m. on December 31, 2008 in which to pursue claims in Litigation against the County as referenced in the Agreement. Also, pursuant to Paragraph II(I), the provisions of II(A) through II(D) are further modified to provide that Dutra shall not file suit against the County unless the County has rejected the General Plan Amendment called for by this Third Extension or December 17, 2008, whichever comes first, and that the scope of any Litigation filed by Dutra shall be limited to issues and remedies under CEQA and the California Government Code that pertain only to the Dutra property.
- C. The County has prepared a Baylands Corridor Map as it relates to the Dutra property ("Map"). A copy of the Map is attached hereto and incorporated herein. Dutra agrees that the Map is accurate. It is the intent of the County to adopt the Map as part of an amendment to the Countywide Plan adopted on November 6, 2007 in order to correct technical errors which the County has identified. The County anticipates adopting this General Plan Amendment by December 17, 2008.

- D. Dutra agrees that if the County adopts a General Plan Amendment by December 17, 2008, which includes the Map attached hereto, and subject to (1) no third party challenge to such General Plan Amendment as to the Map, and (2) no adoption by the County of any provision in such General Plan Amendment adversely affecting Dutra, Dutra will waive and abandon all of its claims that the adoption of the Countywide Plan on November 6, 2007 violated CEQA and provisions of the California Government Code. If there is a challenge to such General Plan Amendment as to the Map, the Parties agree to enter into a further extension of the Agreement which would extend the time for Dutra to file suit until the conclusion of the challenge and then, only if the challenge results in the setting aside of the General Plan Amendment.
- E. In all other respects, the provisions of the Agreement remain in full force and effect.

II. WARRANTY OF THE PARTIES

- A. The County warrants and represents that it has authorized its counsel, through its Board of Supervisors, as evidenced by his signature below, to enter into this Third Extension.
- B. Dutra warrants and represents that it has authorized its counsel, as evidenced by his signature below, to enter into this Third Extension.

Dated: March 4, 2008

FARELLA, BRAUN & MARTEL LLP

By: _____


Christopher Locke

Counsel for San Rafael Rock Quarry, Inc.
The Dutra Group, and Dutra Materials, Inc.

Dated: March 18, 2008

COUNTY OF MARIN

By: _____


E. Clement Shute

Special Counsel, County of Marin

SECOND EXTENSION
OF
DUTRA AND COUNTY TOLLING AGREEMENT

A Tolling Agreement ("Agreement") was entered into on December 6, 2007 between the San Rafael Rock Quarry, Inc., The Dutra Group and Dutra Materials, Inc. ("Dutra") on the one hand, and the County of Marin ("County") on the other hand, by and through their undersigned counsel. An executed copy of that Agreement is attached hereto and incorporated herein. An Extension of the Agreement was entered into by the Parties on December 12, 2007. An executed copy of that Extension is attached hereto and incorporated herein. Dutra and the County are collectively referred to as "the Parties" to the Agreement. The Parties desire to extend the Agreement and do so by this "Second Extension".

I. EXTENSION OF AGREEMENT

- A. The Parties to the Agreement desire to continue their effort to resolve their disagreement without Litigation.
- B. Pursuant to Paragraph II(I) of the Agreement, the provisions of II(A) through II(D) are hereby modified to provide that "March 20, 2008" is substituted for "December 12, 2007". This substitution of dates incorporates the understanding of the Parties that Dutra has until 5:00 p.m. on March 20, 2008 in which to pursue claims in Litigation against the County as referenced in the Agreement.
- C. In all other respects, the provisions of the Agreement remain in full force and effect.

II. WARRANTY OF THE PARTIES

- A. The County warrants and represents that it has authorized its counsel, through its Board of Supervisors, as evidenced by his signature below, to enter into this Second Extension.
- B. Dutra warrants and represents that it has authorized its counsel, as evidenced by his signature below, to enter into this Second Extension.

Dated: 2/12/08

FARELLA, BRAUN & MARTEL LLP

By: 

Christopher Locke

Counsel for San Rafael Rock Quarry, Inc.

The Dutra Group, and Dutra Materials, Inc.

Dated: 2/14/08

COUNTY OF MARIN

By: 

E. Clement Shute

Special Counsel, County of Marin

EXTENSION
OF
DUTRA AND COUNTY TOLLING AGREEMENT

A Tolling Agreement ("Agreement") was entered into on December 6, 2007 between the San Rafael Rock Quarry, Inc., The Dutra Group and Dutra Materials, Inc. ("Dutra") on the one hand, and the County of Marin ("County") on the other hand, by and through their undersigned counsel. An executed copy of that Agreement is attached hereto and incorporated herein. Dutra and the County are collectively referred to as "the Parties" to the Agreement. The Parties desire to extend the Agreement and do so by this "Extension".

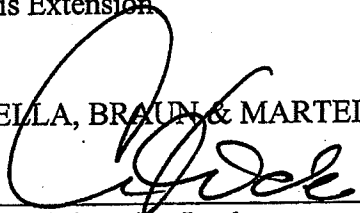
I. EXTENSION OF AGREEMENT

- A. The Parties to the Agreement desire to continue their effort to resolve their disagreement without Litigation.
- B. Pursuant to Paragraph II(I) of the Agreement, the provisions of II(A) through II(D) are hereby modified to provide that "February 20, 2008" is substituted for "December 12, 2007". This substitution of dates incorporates the understanding of the Parties that Dutra has until 5:00 p.m. on February 20, 2008 in which to pursue claims in Litigation against the County as referenced in the Agreement.
- C. In all other respects, the provisions of the Agreement remain in full force and effect.


II. WARRANTY OF THE PARTIES

- A. The County warrants and represents that it has authorized its counsel, through its Board of Supervisors, as evidenced by his signature below, to enter into this Extension.
- B. Dutra warrants and represents that it has authorized its counsel, as evidenced by his signature below, to enter into this Extension.

Dated: December 12, 2007 FAREILA, BRAUN & MARTEL LLP

By: 
Christopher Locke
Counsel for San Rafael Rock Quarry, Inc.
The Dutra Group, and Dutra Materials, Inc.

Dated: December 13, 2007

COUNTY OF MARIN
By: 
E. Clement Shute
Special Counsel, County of Marin

TOLLING AGREEMENT

This Tolling Agreement ("Agreement") is entered into on this 6th day of December 2007, between San Rafael Rock Quarry, Inc., The Dutra Group, and Dutra Materials, Inc. ("Dutra") on the one hand, and the County of Marin ("County") on the other hand, by and through their undersigned counsel. Dutra and the County are referred to collectively as "the Parties" to this Agreement.

I. RECITALS

- A. This Agreement concerns potential litigation ("Litigation") to be filed by Dutra challenging actions taken by the County in approving the 2007 Countywide Plan ("CWP") and related documents.
- B. On November 6, 2007, the County (1) certified the adequacy of the Final Environmental Impact Report ("EIR") (SCH # 2004022076) associated with the CWP; (2) adopted findings pursuant to the California Environmental Quality Act ("CEQA") regarding the EIR and the CWP; (3) approved a Mitigation Monitoring and Reporting Plan for the CWP; and (4) adopted the CWP.
- C. On November 6, 2007, the County filed a Notice of Determination ("NOD") with the Clerk of the County of Marin, commencing the 30-day statute of limitations period under Public Resources Code § 21167.
- D. Dutra believes that the Baylands Corridor Map accompanying the CWP contains errors, omissions and inconsistencies in violation of CEQA and the California Government Code. The County believes that it has complied with all applicable laws. The Parties have begun a dialogue to allow them to discuss and potentially resolve their dispute through negotiation instead of litigation.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained in this Agreement, the Parties agree as follows:

II. AGREEMENT

- A. The statute of limitations for any claim or cause of action that Dutra has, or may have, that would otherwise expire between the effective date and December 12, 2007 is hereby tolled and extended as to Dutra. Any such statute of limitations shall, as to Dutra, expire on December 12, 2007 at 5:00 p.m. This Agreement shall not affect any statute of limitations expiring before the effective date or after December 12, 2007.
- B. The County waives any defenses it has, or may have, to any claim or cause of action commenced by Dutra based on the expiration of the statute of limitations, laches, estoppel or waiver regarding the passage of time, action or inaction between the effective date and December 12, 2007. The County does not waive any defenses other than those regarding the passage of time, action or inaction between the effective date and December 12, 2007. The County does not waive any defenses other than as to Dutra.
- C. For purposes of this Agreement, "effective date" means December 6, 2007.
- D. The Parties agree that except with respect to the extensions and waiver of the statute of limitations and related defenses between the effective date and December 12, 2007, nothing contained herein shall be construed to affect, and the Parties to this Agreement expressly reserve, all factual, legal and equitable contentions with respect to the prosecution or defense of Litigation.

E. This Agreement is intended solely for the benefit of the Parties and shall not be construed to create any rights in any other person or entity.

F. The Parties recognize and understand that this Agreement is being made in part to permit the Parties, by and through their representatives, to discuss a possible amicable resolution of their dispute and that the execution of this Agreement is not and shall not be deemed to constitute evidence of, or an admission of liability for any claim, cause of action, or defense. This Agreement shall not be evidence in respect of any claim other than the defense of the statute of limitations or other defense based upon the passage of time.

G. Each of the persons or entities executing this Agreement represents that he/she has the authority to execute this Agreement on behalf of his/her respective Party.

H. The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Agreement.

I. This Agreement may not be modified, amended, altered or supplemented except by a writing executed by both Parties to the Agreement.

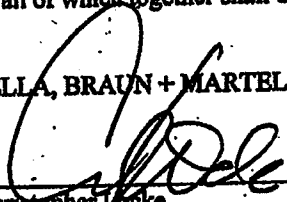
J. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for any dispute pursuant to this agreement shall be in the County of Marin.

K. Neither Dutra nor the County shall challenge the legitimacy of this Agreement or raise as a jurisdictional issue the validity of this Agreement in any future legal action arising as a result of the filing of any Petition.

L. This Agreement may be executed in two counterparts and by original or facsimile signature, each of which shall be deemed to be an original and all of which together shall be deemed to physically form one document.

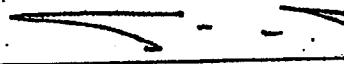
Dated: 12/6/07

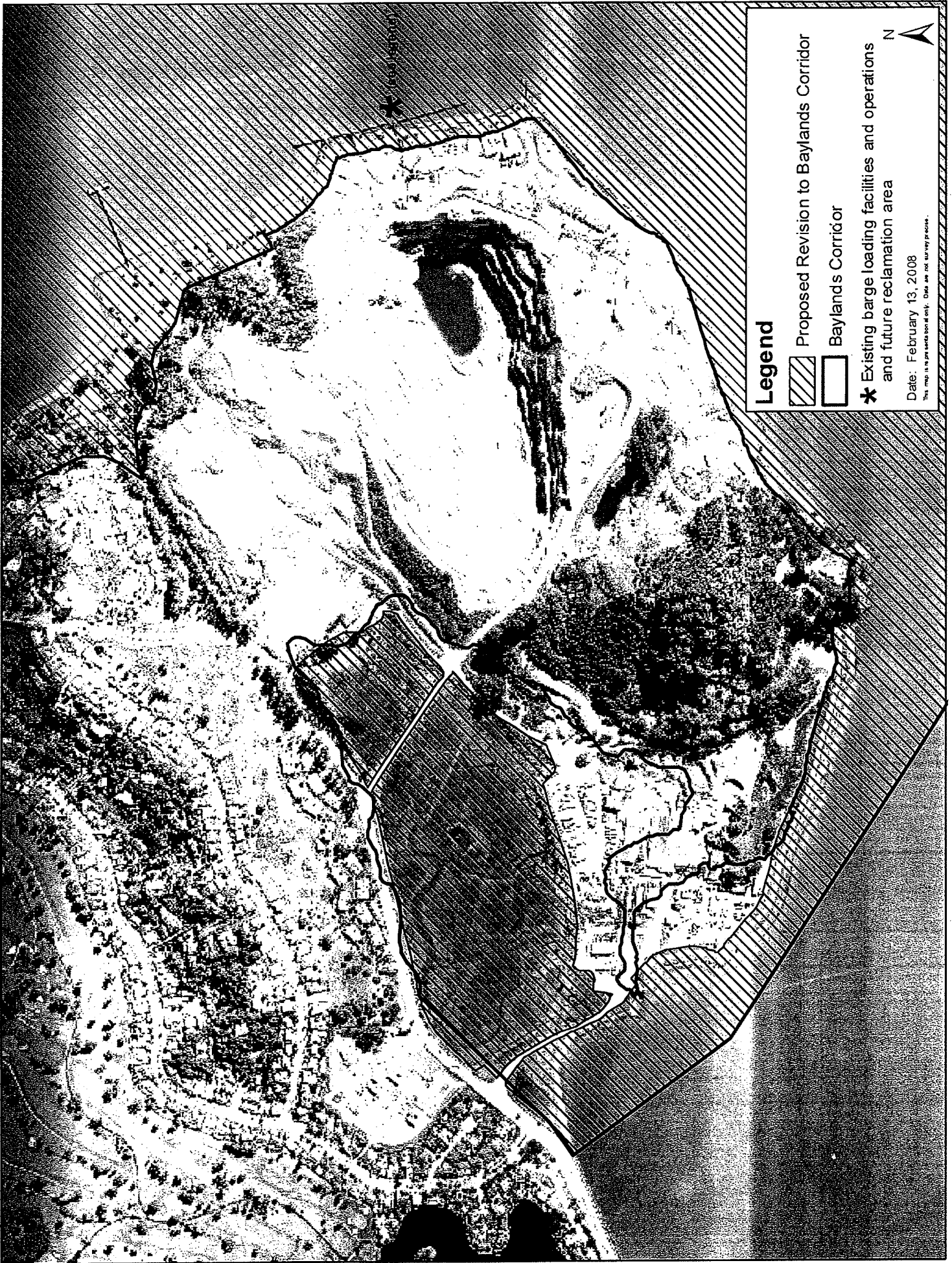
FARELLA, BRAUN + MARTEL LLP

By: 
Christopher Locke
Counsel for San Rafael Rock Quarry, Inc.,
The Dutra Group, and Dutra Materials, Inc.

Dated: 12/6/07

COUNTY OF MARIN

By: 
Richard S. Taylor
Special Counsel, County of Marin



Legend



Proposed Revision to Baylands Corridor



Baylands Corridor

* Existing barge loading facilities and operations and future reclamation area

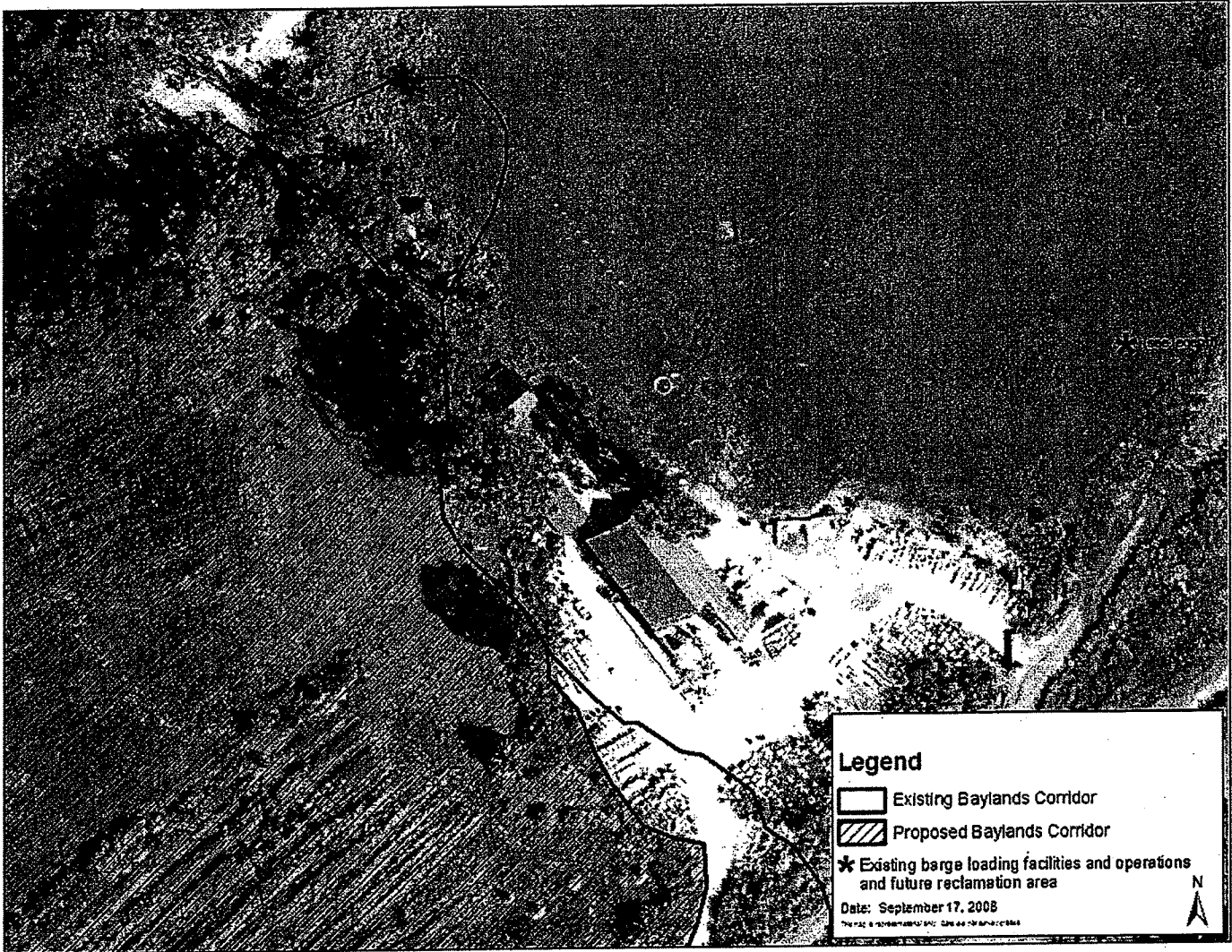
Date: February 13, 2008

This map is for informational only. Data are not survey precise.



ATTACHMENT 2






Legend

 Existing Baylands Corridor

 Proposed Baylands Corridor

 Existing barge loading facilities and operations and future reclamation area

Date: September 17, 2008

THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES

