



Marin Audubon Society

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

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RECEIVED

Planning Commission
City of San Rafael
P.O. Box 151560
1400 Fifth Avenue
San Rafael, CA 94901

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COMMUNITY DEVELOPMENT
CITY OF SAN RAFAEL

Att: Kraig Tambornini, Senior Planner

RE: SAN RAFAEL AIRPORT RECREATION FACILITY

Dear Commissioners:

Thank you for considering Marin Audubon Society's comments on the Draft Environmental Impact Report for the San Rafael Airport Athletic Facility. Our comments include a biological assessment prepared by noted Clapper Rail expert, Jules Evens of Avocet Research Associates (ARA). The report documents a number of errors in the DEIR discussions on Clapper Rails, in particular presenting recent survey data that Clapper Rails do indeed utilize the tidal marshes adjacent to the project site. The report also makes recommendations to protect the Clapper Rail population. We request that all comments and conclusions made in the ARA report, as well as our comments below, be responded to by the EIR consultants.

The project is described as consisting of an indoor sports building that would house two soccer fields, court areas for dance and gymnastics, a 14,400 foot viewing deck above and between the soccer fields, a lighted outdoor soccer field and an unlighted soccer warm up area, a paved parking lot for 184 cars, a gravel overflow parking area, and a new 25-foot wide deck over the existing bridge over Gallinas Creek, all situated on a portion of a 119.52 property currently occupied by the San Rafael Airport and related facilities.

The owner purchased the property knowing that there was a Declaration of Restriction on the property between the city of San Rafael, First National Bank and the County of Marin which allowed intensive development on portion of the property nearest the highway. The intent was to have low impact use on the remainder and the uses were specifically restricted to the airport because it was an existing use, open space, roadways and recreational use. It was not intended that recreational use would include a massive building.

Our specific comments on the DEIR are as follows:

PROJECT DESCRIPTION

We found several discrepancies in the description of the project that should be cleared up:

page 3-11 indoor recreational facility is described as being 87,700 square feet and on page 3-9 the indoor sports fields/courts etc. are described as being 71,300 square feet. The project site is described as being 9.1 acres in size on page 3-1 and other pages, and 4.4 acres on page 11-27. Interestingly the impervious surface area is described as being 4.6 acres on page 11-27.

The use of artificial turf should be discussed. What are the potential benefits (e.g. less use of water, less use of pesticides) and adverse impacts (e.g. loss of habitat by covering soil so that invertebrates cannot survive in the soil, contamination of the local environment with pieces of plastic, eventual need to replace and dispose of the plastic material) of using artificial turf? Impacts to wildlife, the environmental and human health should be discussed.

LAND USE

The discussion of compliance with the site zoning is inaccurate. The property is zoned Planned District (PD) - Wetland Overlay District. The purpose of a PD designation is to ensure the property is planned as a whole. The application for this project is not consistent with this designation because the application only applies to a very limited area (approximately 9.1 acres) leaving significant portions out of the planning area. Approving the project would piecemeal the planning and would set the stage for future development of the remaining undeveloped land. There also would be inadequate consideration of cumulative impacts. If some small portion of the property is to be used, a Master Plan should be required for the entire site.

BIOLOGICAL RESOURCES

Inaccurate analysis of Impacts to Clapper Rail

- The DEIR erroneously claims there are no Clapper Rails in the marsh adjacent the to project site. Community members have observed Rails on this section of marsh, a local photographer has photographic documentation of Rails using that section of the marsh, and surveys by Avocet Research Associates have all found Rails on the south side of the creek near the project site.

Project Setting:

The discussion on pages 7-1 and 7-3 contains inaccuracies, faulty analyses and conclusions. There is no viewing platform at McInnis Park, only a boat launch for non-motorized boats that was installed long before there was any indication or knowledge of the importance of Gallinas Creek for Clapper rail. Now that the importance of this habitat is realized, we encourage its removal. If it remains in place, the impacts of the athletic complex should be evaluated as cumulative together with the impacts of the existing use of this dock, the trails and other use. These cumulative impacts would be significant.

Many of the active uses, including the golf course, restaurant, batting cage, are located well away from the creek. The McInnis Park trails are characterized as being "heavily used by pedestrians with dogs...." This is a mischaracterization. The trail use is passive for walking, running, etc. We have never witnessed it being heavily used as noted in the DEIR. Even if it were, again, this would not justify a huge project that would attract many hundreds of people and add to the

cumulative adverse impacts. Significantly increased impacts can be anticipated.

Failure to comply with San Rafael General Plan Policies:

Contrary to the discussion on page 7-13, the project does not comply with General Plan policy CON-5 which states "**Diked Baylands. Protect seasonal wetlands and associated upland habitat contained within undeveloped diked baylands, or restore to tidal action.**" The entire property is diked baylands, that are either diked seasonal wetland or associated uplands. The DEIR's justification is that the "...project site is located adjacent to the existing airport runway, and is maintained through routine mowing and maintenance, no longer provide the beneficial functions and values that are generally associated with diked baylands." Of course, the policy has no such restrictions. The current condition of the wetlands does not have any relevance to of protecting diked baylands. It has no requirements that diked baylands and associated uplands have to provide "functions and values currently associated with diked baylands." This interpretation is a fabrication designed to support the project and it is completely irrelevant and misleading. Failure to comply with this general plan policy should be identified as a significant adverse impact.

Clapper Rail Discussion is Misleading and Inaccurate

While the consultants may (or may not) have used accepted protocols and did not detect Clapper Rail, this does not mean they do not use the adjacent marsh. Surveys by Clapper Rail expert found Rails in the marshes immediately adjacent to the project site (see attached report)

The DEIR discussion on page 7-22 emphasizes that Rails readily acclimate to human presence (e.g. Palo Alto Baylands) and that only nesting locations are important. All tidal marsh areas are important for Rails. Rails need marshes for foraging and movement between habitats, and particularly dispersal of young. If all that remains is nesting habitat, the species will not survive. Regarding Palo Alto Baylands, the kinds of uses that would occur with this project are quite different than those that occur in the area where rails are observed in the Palo Alto Baylands. This project will have many hundreds of people playing active sports, many spectators cheering etc. At Palo Alto the people are primarily walkers and birders wanting to see the birds, and along with some people parking.

The conclusion that "rails seemed to be well acclimated to a high degree of human activity" is self-serving and questionable. The proposed project would significantly increase the uses adjacent to the creek and, therefore, significantly increase the impacts to the existing Rail population of this important creek, and limit potential use of this area by other Rails in the future.

The discussion of potential noise impacts on page 7-65 also emphasizes the consultant's view that the Rails have already become acclimated. It is not clear that this is anything but the opinion of consultants and the people who hired them. But even if it does not consider the fact that these particular rails will not be living forever. Narrow marshes are needed as movement corridors between larger marshes and as dispersal habitats for young Rails moving out on their own. All Rails do not have the same tolerance nor should we expect or want them to. Further, tolerance to the presence of people would leave the Rails vulnerable to being caught by dogs, cats or harmed by people. Also, acclimation of the Rails to people should not be the guiding principle.

Ensuring native habitat that provides protection, nesting and movement for rails should be.

Considering the inaccuracy of the DEIR analysis and the presence of the Clapper Rails on the adjacent marshes, misinterpretation of Clapper Rail presence near human use areas, and the inadequacy of the buffer area provided (see ARA report) the DEIR conclusion must be changed to indicate that the impacts to Clapper Rails are not reduced to a less than significant level.

Salt Marsh Harvest Mouse

The DEIR claims that for Harvest Mice the "Project will not result in impacts to potentially occupied habitat along Gallinas Creek. Since the Marsh habitats and uplands adjacent to this creek corridor will be protected." Actually this claim is inaccurate as Harvest Mice have been found several hundred feet or more from tidal marshes. They seek refuge in these lands during high tides.

Impact BIO-1 Listed Anadromous Fish Species.

The discussion deals only with Coho salmon. Chinook move past Gallinas Creek during out migration. What is the potential for them to stop rest and forage in nearby marshes?

Discuss the impact of the pile driving for the bridge on fish. Experience around the bay is that sound waves generated by pile driving have killed fish by bursting their bladders. See comments on "quiet pile driving" below.

Impact BIO-2 California Black and Clapper Rail Impacts

A 100-foot buffer is proposed between the project and the top of the levee. As discussed by ARA, this measurement is inaccurate and insufficient to protect the rails. As recommended in the ARA report, the USFWS recommended buffer of 250 feet should be applied.

None of the proposed mitigation measures will adequately reduce the noise impacts to a level of insignificance. "Quiet pile driving" procedures (predrilling of holes) is suggested as a remedy for noise impacts. The discussion of impact should describe what this technique involves, evaluate its effectiveness in protecting fish and wildlife, and identify where it has been used effectively, to protect the same or similar species, elsewhere. Describe these procedures and how it would effectively reduce noise levels? How quiet would the pile driving really be? Has it been used in endangered species habitat? Discuss vibrations from the drilling and predrilling? These questions must be answered in order to allow the effectiveness of this as a mitigation program to be evaluated.

Not commencing construction until July 1, as noted on page 7-66 and many other discussion, is not an adequate mitigation because the Clapper Rail nesting season extends to September 1. We cannot imagine why the USFWS would allow construction to begin along the Creek that has the largest Clapper Rail population in the North Bay, on July 1, when other projects have to comply with the standard protocol.

MM BIO-2 Perimeter Fence/marsh impacts

The stated purposes of the 10-foot tall perimeter is to keep balls out of the marsh. While this may

work for most balls, balls will undoubtedly still get into the marsh. A management plan should be required that will ensure that balls do not remain in the marsh decaying and contaminating the habitat and/or that people are not constantly entering the marsh to retrieve the balls. If the intent of the fence is to keep balls out of the marsh, it should be taller than 10 feet.

We see the main benefit of the fence as keeping people and dogs out of the marsh. In addition, signs informing people to stay out of the marsh should be required.

There also should be a requirement for the fence to be maintained.

MM BIO-2b Conservation Area

What reason is there to believe that a requirement for a deed restriction for maintenance of the habitat area for conservation would be effective in protecting the habitat. First of all, while we have no problem with the city having review power, the city does not have the biological expertise necessary to ensure survival of the endangered species. The responsible agencies, USFWS Endangered Species and DFG, should have the review power. Also, who would be the holder of the easement? Finally, considering that the property owner is trying to remove himself from the existing deed restriction, why should there be any confidence that this recommendation would be effective?

MM BIO 5-d makes a similar recommendation for a conservation easement for burrowing owl mitigation lands. What agency would hold this easement and take on the responsibility for policing the property owner's compliance? Holding a conservation easement carries responsibilities to monitor and enforce easement restorations. What entity would be willing to take on this responsibility?

MM BIO 2-c Levee Maintenance

As discussed above, no work should be done until September 1.

Additional Mitigation Needed

2-c We agree that no mowing should be allowed on the face of the levee adjacent to the project site. In fact, the applicant should be required to revegetate the area with native grasses and shrubs of sufficient height to provide cover for the Rails along this edge.

There is no mention of control for domestic animals. This would be an attractive out-of-the-way location for people to dump unwanted cats or let dogs run loose. There should be a prohibition of feeding or dumping cats and maintenance of feral cat colonies on the property. Dogs should be required to be on-leash at all times.

MM BIO-2d Avoidance Measures

It is unclear what black mesh exclusion fencing would be made of. Plastic should not be used because it can break or degrade. The resultant pieces can be ingested or otherwise harm clapper Rails and other species. Some other method of excluding construction activities from the Rail habitat should be used.

MM Bio-2-e The activities of marsh species are guided by the tidal cycles, not night and day. The recommendation, to be protective, should ban activities during high tides when rails are forced up onto adjacent high ground.

MM BIO-3a Nocturnal Lighting

This mitigation discussion claims that hoods and cut-off lenses make the light source itself not visible to the naked eye from neighboring properties. This analysis simply assumes that the wildlife will be protected just because neighbors cannot see the light source. Just because the light source is not visible to people does not mean that there would be no impacts to wildlife. What spectrum of light might adversely impact the Rails and other wildlife on and adjacent to the project site? Do wildlife have the same spectrum vision as people. How about glows? Where have these fixtures been used? Where have they been used adjacent to tidal marshes? How effective have they been in avoiding impacts to endangered species?

MM BIO 6-a Bridge Construction

Again, the discussion stating that the bridge construction would begin August 1 is in error. The bridge construction including pile driving and moving the surface would be right next to and in the marsh.

Impact Bio-9 CDFG Jurisdiction

The SBAA expired on December 31, 2008. It is not clear whether this would be renewed with different conditions, or if it would be renewed at all.

GEOLOGY AND SOILS

MM GEO-1 Geotechnical Engineering Recommendations

Significant imported fill will be required. Where would the fill come from? What would assure it is of acceptable quality? How many truck loads would be required to import the fill? What are the impacts of all of these truck loads on streets and local residents?

As noted above, pile driving noise is annoying and can be harmful to people, can cause death of fish and adversely impact other wildlife. This should be identified as a potential impact, and mitigations should be discussed.

HYDROLOGY AND WATER QUALITY

Exploratory borings found groundwater 10 feet down, and the discussion acknowledges that ground water fluctuates seasonally. It is important to know the date the borings were done. In winter or spring it is likely the groundwater table would be much higher and, therefore, construction would be more complicated.

MM Hyde-2 Drainage Swales

What measures would be used to ensure the grassed swales recommended to filter pollutants from runoff continually consist of a "dense, uniform growth of fine-stemmed herbaceous plants" in our Mediterranean climate with no rain all summer? How and where would they be

constructed.

On-site Runoff Quality

It does not appear that the oil and grease from airplane repair and petroleum residues from the airplanes using the runway are recognized as being part of the runoff from the site.

Impact Hyd-2 Flooding as a Result of Levee Failure.

The impact description states that the levee is protected by nine foot levees. Nine feet from what? What is the datum used for this height? Is it NAVD, NAVD?

Does the 85-acre area projected as being subject to flooding by Obercamper (page 11-31) second paragraph, include the area on which this project is proposed?

Extensive fill will have to be placed to raise the elevation of the building pad to finished grade 1.5 foot NAVD (page 3-19) but finished grade elevation in the indoor building is stated to be +10 on page 3-20. building will be encased with a five foot tall concrete block walls. Approximately 32,000 cubic yards of fill would need to be imported with only 3,000 coming from on-site.

Where will the fill come from? What guarantee would ensure it would not be contaminated? What is the potential for mudboil or waves in the nearby tidal marsh as the result of all of the additional weight of the earth fill and concrete walls?

Sea Level Rise

The DEIR (Page 11-34) uses an EPA prediction of sea level rise of 0.5 feet in San Francisco Bay by the year 2050. It concludes that the impacts of sea level rise would be insignificant until 2050 and, therefore, dismisses the significance of this impact. The discussion fails to recognize that sea level rise will be gradual and, therefore, adverse impacts will be gradual, not begin to be significant all of a sudden in 2050. Such an erroneous and simplistic explanation is faulty and misleads the public who would be adversely impacted.

This entire discussion should be revised and updated. The April 17, 2009, BCDC staff report LIVING WITH A RISING BAY: VULNERABILITY AND ADAPTATION IN SAN FRANCISCO BAY AND ON THE SHORELINE reports "Global warming is expected to result in sea level rise in San Francisco Bay of 16 inches (40 cm) recent projections that sea level rise in San Francisco Bay by mid century..." (Summary page 1) This is a significantly more alarming scenario than presented in the DEIR. The discussion should be revised and expanded to consider information and recommendations of the BCDC report and to consider the significance of the sea level rise that will far exceed .5 feet and when the rise could be anticipated to place properties and people occupying adjacent low lying lands at risk. The airport property is clearly shown on figure 1.12 in the BCDC report as a property that is vulnerable to flooding with a 16 inch sea level rise.

One of the mitigation measures that should be discussed to address the very significant impact of sea level rise is not building in lowlying baylands that are in the path of projected sea level rise

would increase the risk to people and properties well beyond what already exists.

OTHER EFFECTS

Water Use - According to the DERI, "the applicant has not indicated that recycled water will be utilized." (Page 3-17) At this time, when there are increasing uncertainties about water supply, there should be no option, but that this project be required to use reclaimed water particularly when it is so close to Las Gallinas Treatment Plant which has a MMWD's reclaimed water facility.

Growth Inducing

The DEIR does not adequately address the growth inducing impacts. If this huge project is approved for a limited amount of land owned by this developer, it will only be the beginning. He would undoubtedly want to develop additional undeveloped portions of the property.

ALTERNATIVES ANALYSIS

The No Project Alternative fails to comply with CEQA. To consider a vague, poorly defined project that doesn't even exist, and may never even be proposed or built, as the No Project Alternative is simply an outrageous distortion. A no project alternative must be based on current conditions. In this case, the current condition is no development at all.

The DEIR does not present an adequate range of alternatives. A reduced project alternative that does not have a building should be presented.

The Alternative 3 analysis is specious. The DEIR concludes that all significant environmental impacts can be mitigated to less than significant because the project would conform to the land use designation and constraints of the site provided mitigation measures are implemented, potentially significant impacts can be mitigated, and the applicant would likely withdraw his application, the offsite location was considered but rejected. We strongly disagree with this self serving analysis. As discussed above, all of the significant impacts are not mitigated to a level of insignificance. Further, since when is it the city's purpose to ensure applicant's don't withdraw?

Thank you for considering our input, questions and concerns.

Sincerely,


Barbara Salzman, Co-chair
Conservation Committee


Phil Peterson, co-chair
Conservation Committee