COUNTY OF MARIN, CALIFORNIA

O'Donnell Financial Group Master Plan Amendment and Design Review

RESPONSES TO COMMENTS
ON THE
MITIGATED NEGATIVE DECLARATION

AUGUST 2021

Douglas Herring & Associates
Environmental, Policy, and Planning Services

RESPONSES TO COMMENTS

This document contains all of the written comments received by the County of Marin on the *O'Donnell Financial Group LLC Master Plan Amendment and Design Review Initial Study/ Negative Declaration* (IS/ND) and presents the County's responses to each of the substantive comments submitted by public agencies and members of the public. Written comments were received during the 45-day public review period, which initially extended from January 13, 2021 to February 16, 2021, but which was extended to March 3, 2021 at the request of the Sierra Club. Pursuant to CEQA, prior to approving a project, the decision-making body of the lead agency must consider the proposed Negative Declaration, together with all comments received during the public review process. (*State CEQA Guidelines* Section 15074.) Although, written responses to comments on an IS/ND are not required by CEQA, the County has determined to exceed the minimum requirements and prepare responses to the comments received that pertain to the adequacy of the IS/ND.

Although some minor text changes have been made to the circulated public draft IS/ND as a result of public comments received as well as internal review by County staff, none of the revisions qualify as "substantial revisions" that would require public recirculation of the IS/ND in accordance with Section 15073.5 of the *State CEQA Guidelines*. Section 15073.5 establishes that recirculation is required if a substantial revision to the IS/ND is necessary. A "substantial revision" includes one of the following:

1. A new, avoidable significant effect (impact) is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or

2. The Lead Agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

State CEQA Guidelines Section 15073.5 explicitly holds that recirculation is not required under the following circumstances:

1. Mitigation measures are replaced with equal or more effective measures pursuant to *State CEQA Guidelines* Section 15074.1;

2. New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed (mitigated) negative declaration which are not new avoidable significant effects;

3. Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect; or

4. New information is added to the negative declaration that merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

As detailed in the responses presented in this document, none of the comments on the IS/ND received by the County have resulted in revisions to the IS/ND that meet any of the criteria listed above requiring recirculation of the IS/ND. Furthermore, despite assertions to the contrary, none of the comments on the IS/ND received by the County have presented substantial evidence that the project may have a significant effect on the environment that cannot be mitigated or avoided, which would require preparation of an environmental impact report (EIR), as required by Section 15073.5(d) of the *State CEQA Guidelines.* No potentially significant impacts have been identified for the proposed mixed-use development, and therefore no mitigation measures are required. However, as discussed throughout the Initial Study, the project would be required to comply with numerous provisions of the County Code that function as mitigation measures. For example, restrictions on hours of construction activity would reduce potential noise impacts, and requirements for dust control measures during construction would reduce adverse effects on air quality.

The proposed changes to the IS/ND, set forth below, will be part of the final IS/ND adopted by County decision makers prior to project approval. The changes amount to clarification, amplification, or insignificant modifications to the IS/ND, one of the circumstances cited above where recirculation is not required, pursuant to *State CEQA Guidelines* Section 15073.5(c)(4).

According to the Governor's Office of Planning and Research (OPR), the State agencies that were invited to review the IS/ND included the following:[1]

- California Natural Resources Agency
- California Department of Conservation (DOC)
- California Department of Fish and Wildlife (CDFW), Regions 3 and 7
- California Department of Parks and Recreation
- California Department of Water Resources (DWR)
- California Highway Patrol (CHP)
- California Department of Transportation (Caltrans), District 4

[1] Governor's Office of Planning and Research, CEQAnet Web Portal, https://ceqanet.opr.ca.gov/2020060587/2.

- California Air Resources Board (ARB)
- California Regional Water Quality Control Board (RWQCB), Region 2
- California State Lands Commission (SLC)
- State Water Resources Control Board (SWRCB)
- California Department of Housing and Community Development (HCD)
- Office of Historic Preservation
- California Native American Heritage Commission (NAHC)
- San Francisco Bay Conservation and Development Commission (BCDC)

The only letters received from public agencies were submitted by Caltrans, the California Department of Fish and Wildlife, and Marin Water (formerly Marin Municipal Water District). Two organizations, Watershed Alliance of Marin and the Sierra Club, submitted comment letters. A letter from Pacific Gas & Electric (PG&E) was also received. The remainder of the 12 comment letters were submitted by local residents. As noted above, the responses to comments focus on questions raised related to the adequacy of the environmental analysis of the proposed project that was presented in the IS/ND. Some comments address issues unrelated to the potential environmental impacts of the project or the adequacy of the IS/ND, and therefore are not required to be evaluated in a CEQA document. Although these comments are acknowledged and additional information may be provided, detailed responses to such comments have not been included.

Text Changes to the Initial Study

Based on the public comments received as well as internal review, the following text changes to the Initial Study are made (deleted text shown as ~~strikethrough text~~; added text shown as double-underlined text). As previously discussed, none of the revisions qualify as "substantial revisions" that would require public recirculation of the IS/ND in accordance with Section 15073.5 of the *State CEQA Guidelines*.

Page 35, Section 4-a:

The project site is devoid of natural habitat that could support special-status plant or wildlife species. While there is habitat to support special-status species within several hundred feet of the project site, as discussed further below, construction and operation of the project would not affect the habitat or the species that depend on or utilize the habitat. There are a few ornamental trees near the rear property line~~, but they are not expected to~~ that could be utilized by nesting birds. Although the trees ~~and special-status species, and they~~ would be retained, if construction were to be conducted during nesting activity, both visual and acoustic disturbance could cause the abandonment of an active nest. Although the potential for nest failure is not as likely as in a non-urban environment because urbanized birds are more likely to be habituated to the existing levels of disturbance, project construction nonetheless would have some potential to cause nest abandonment and failure. ~~The project would have ***no impact*** on special-status species.~~

Marin County Development Code Section 22.20.040, Outdoor Construction Activities, requires that "…outdoor construction activity that involves tree removal, grading, or other site disturbances…" follow standardized nesting bird protection measures to include avoidance during the nesting season, which generally occurs between February 1 and August 15 or a pre-construction nesting bird survey conducted by a qualified biologist. The code goes on to specify actions to take if a nest is found to be present, including establishing a fenced buffer zone around the nesting tree, to be maintained until the young have fledged, as determined by a qualified biologist. Compliance with these codified County requirements would ensure that potential impacts to nesting birds would be ***less than significant***. No other potential impacts to special-status species were identified.

Page 35, Section 4-a:

[The checkbox for Section (a) is changed from No Impact to Less than Significant.]

Taylor, Tammy

From: Taylor, Tammy
Sent: Tuesday, March 02, 2021 11:49 AM
To: EnvPlanning
Subject: FW: comment letter for O'Donnell Financial Group, MND
Attachments: O'Donnell Financial Group Caltrans.pdf

From: Bereket, Immanuel <IBereket@marincounty.org>
Sent: Friday, February 12, 2021 10:39 AM
To: Taylor, Tammy <TTaylor@marincounty.org>
Subject: FW: comment letter for O'Donnell Financial Group, MND

From: Luo, Yunsheng@DOT <Yunsheng.Luo@dot.ca.gov>
Sent: Friday, February 12, 2021 10:18 AM
To: Bereket, Immanuel <IBereket@marincounty.org>
Cc: Leong, Mark@DOT <Mark.Leong@dot.ca.gov>; OPR State Clearinghouse <State.Clearinghouse@opr.ca.gov>
Subject: comment letter for O'Donnell Financial Group, MND

Hi Immanuel,

Thank you for the opportunity to review the MND for the O'Donnell Financial Group project. Attached please find the comment letter for this project. Feel free to reach out to me if you have any questions.

Thank you!

Best,

Yunsheng Luo
Associate Transportation Planner
Local Development - Intergovernmental Review (LD-IGR)
Caltrans, District 4
Cell: 626-673-7057
*For early coordination and project circulation, please reach out to **LDIGR-D4@dot.ca.gov***
*For information about Caltrans' land use and transportation environmental review guidances, please visit the **SB-743 Implementation website.***

DEPARTMENT OF TRANSPORTATION
DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
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LETTER A

Making Conservation a California Way of Life.

February 12, 2021

SCH #: 2021010122
GTS #: 04-MRN-2021-00193
GTS ID: 21696
Co/Rt/Pm: MRN/1/0.13

Immanuel Bereket, Senior Planner
County of Marin Community Development Agency Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: O'Donnell Financial Group, LLC. Master Plan Amendment and Design Review– Initial Study/ Mitigated Negative Declaration (IS/MND)

Dear Immanuel Bereket:

A-1 Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for this project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the January 2020 Draft IS/MND.

Project Understanding

The proposed project is to request the Master Plan Amendment and Design Review approval to construct a two-story, mixed-use building consisting of 10 studio apartment units and 11 studio extended stay hotel rooms. The Master Plan designates the subject property for use as a gasoline service station. This 0.59-acre project site is located adjacent to State Route (SR)-1.

A-2 **Transportation Impact Analysis**

Because the project is located along SR-1, please provide Caltrans with a transportation impact analysis to evaluate the long-term transportation impacts resulting from this development.

A-3

Construction-Related Impacts

Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: https://dot.ca.gov/programs/traffic-operations/transportation-permits. Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the STN.

A-4

Lead Agency

As the Lead Agency, the County of Marin is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

A-5

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto the Right-of-Way (ROW) requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating the State ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to D4Permits@dot.ca.gov.

To download the permit application and to obtain more information on all required documentation, visit https://dot.ca.gov/programs/traffic-operations/ep/applications.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov.

Sincerely,

Mark Leong

MARK LEONG
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter A

California Department of Transportation (Caltrans)

A-1 The comment provides a summary of the proposed project and states Caltrans' commitment to preventing and mitigating impacts to the State's multimodal transportation system and natural environment. It does not address the adequacy of the IS/ND, and no response is necessary.

A-2 The comment requests a transportation impact analysis of the proposed project to evaluate the project's long-term transportation impacts. A traffic impact analysis was performed in 2019 by the transportation consulting firm W-Trans, the results of which are summarized in Section 17 of the IS/ND. As explained there, when subtracting out the vehicle trips generated by the currently permitted use of the project site as a gasoline station, there would be a net reduction in the daily and peak-hour vehicle trips generated by the project. There would be a net reduction of 440 daily trips and a net reduction of 38 PM peak-hour trips. Consequently, the project would result in a beneficial effect on traffic compared to redevelopment under its current zoning and land use, which would allow redevelopment of the site as a gas station with just a building permit.

Furthermore, Section 15064.3 of the *State CEQA Guidelines* states that projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less-than-significant transportation impact. As noted above, the proposed project is expected to result in a substantial reduction in vehicle trips in comparison to the former and currently permitted use for the site. Given the magnitude of the reduction in daily and peak-hour trips, it is reasonable to assume the project would also result in a reduction in VMT. Therefore, the project would not have significant short- or long-term transportation impacts, including impacts on State transportation facilities managed by Caltrans.

A-3 It is acknowledged that if construction of the proposed project would entail the operation of an oversized or excessively heavy truck on State roadways, a permit from Caltrans would be required, and that a condition of the permit could include preparation and implementation of a Transportation Management Plan. Specific details on the logistics of project construction were not available during preparation of the IS/ND, and it is not known whether project construction would require transportation of oversized or excessive-load vehicles. Obtaining the permit would be the responsibility of the applicant. This issue does not relate to the adequacy of the environmental review documented in the IS/ND.

A-4 It is acknowledged that the County is responsible for ensuring that the applicant complies with all applicable mitigation requirements. As discussed in Response to Comment A-2, the transportation impact analysis summarized in the IS/ND determined that the project would not have any potentially significant impacts related to traffic and transportation. Therefore, for this particular project, there will be no need for the County to monitor and verify implementation of any transportation-related mitigation measures.

A-5 Based on project plans available for review during preparation of the IS/ND, it does not appear that project construction will encroach into the Caltrans right-of-way (ROW). However, it is acknowledged that if encroachment were to be necessary, the applicant would be required to obtain an encroachment permit from Caltrans, and to demonstrate compliance with applicable Americans with Disabilities Act (ADA) requirements. Obtaining the permit would be the responsibility of the applicant. This issue does not relate to the adequacy of the environmental review documented in the IS/ND, and no further response is necessary.

Taylor, Tammy

From: Taylor, Tammy
Sent: Tuesday, March 02, 2021 11:49 AM
To: EnvPlanning
Subject: FW: O'Donnell Financial Group Master Plan Amend-SCH2021010122
Attachments: ODonnell Financial Group Master Plan Amend-SCH2021010122-Bereket-CULPEPPER030121.pdf

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From: Bereket, Immanuel <IBereket@marincounty.org>
Sent: Tuesday, March 02, 2021 9:57 AM
To: Taylor, Tammy <TTaylor@marincounty.org>
Subject: FW: O'Donnell Financial Group Master Plan Amend-SCH2021010122

fyi

From: Hultman, Debbie@Wildlife <Debbie.Hultman@wildlife.ca.gov>
Sent: Monday, March 1, 2021 4:25 PM
To: Bereket, Immanuel <IBereket@marincounty.org>
Cc: OPR State Clearinghouse <State.Clearinghouse@opr.ca.gov>; Culpepper, Amanda(Mandy)@Wildlife <amanda.culpepper@wildlife.ca.gov>; Day, Melanie@Wildlife <Melanie.Day@wildlife.ca.gov>; Weightman, Craig@Wildlife <Craig.Weightman@wildlife.ca.gov>
Subject: O'Donnell Financial Group Master Plan Amend-SCH2021010122

Mr. Bereket,

Please see the attached letter for your records. If you have any questions, contact Ms. Amanda Culpepper, cc'd above.

Thank you,

Debbie Hultman | Assistant to the Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Ste. 100, Fairfield, CA 94534
707.428.2037 | debbie.hultman@wildlife.ca.gov

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

LETTER B

March 1, 2021

Mr. Immanuel Bereket
County of Marin, County Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
IBereket@marincounty.org

Subject: O'Donnell Financial Group Master Plan Amendment and Design Review, Mitigated Negative Declaration, SCH No. 2021010122, Marin County

Dear Mr. Bereket:

B-1 The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Marin (County) for the O'Donnell Financial Group Master Plan Amendment and Design Review (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: O'Donnell Financial Group, LLC

Objective: The Project will amend the Howard Johnson's Master Plan, originally approved in 1969 and amended in 1973, to allow housing development at a designated gasoline service station property; and receive design review approval to construct a two-story, mixed-use building with approximately 10 studio apartments and 11 studio

[1] CEQA is codified in the California Public Resources Code in Section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

B-1

extended-stay hotel rooms on a vacant lot. A gasoline station was removed from the lot in 1994 and it has been vacant since that time. Primary Project activities include grading, excavation, trenching, building construction, concrete pouring, and landscaping.

Location: The Project is located at 150 Shoreline Highway, approximately 700 feet west of the intersection of Highway 101 and Highway 1 (Shoreline Highway), at the western edge of Richardson Bay near the City of Mill Valley, in Marin County. The Project will occur on Assessor's Parcel Number 052-371-03. The approximate Project centroid is Latitude 37.88107°N, Longitude 122.51864°W.

Timeframe: The Project is anticipated to take between 12 and 14 months to complete.

ENVIRONMENTAL SETTING

The Project site is located on a 0.59-acre undeveloped lot with a hard-packed dirt and gravel surface. The lot contains no vegetation and is currently used for construction equipment and material storage. The site is immediately surrounded by mixed-use development, including a Holiday Inn Express to the northwest and housing and commercial businesses to the southeast. Adjacent properties contain ornamental trees and vegetation that could provide nesting habitat for birds. In addition, the Project site is approximately 350 feet southwest of the Marin County Parks Mill Valley/Sausalito pedestrian pathway and adjacent Coyote Creek Marsh. The nearest watercourse, Coyote Creek, is approximately 485 feet northwest of the Project site and a drainage ditch flowing to Richardson Bay is approximately 150 feet southeast of the Project site. Bothin Marsh Open Space Preserve is approximately 600 feet northwest of the Project site, on the opposite side of Coyote Creek relative to the Project. The site is located within the Federal Emergency Management Agency (FEMA) designated 100-year flood zone and will be subject to sea level rise under various climate change scenarios (Ackerly et al. 2018; see also Our Coast Our Future[2] and BayWAVE: Sea Level Rise and Marin's Bayside[3]).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

[2] https://data.pointblue.org/apps/ocof/cms/
[3] https://www.marincounty.org/main/marin-sea-level-rise/baywave

Environmental Setting and Related Impact Shortcoming

California Ridgway's rail and California black rail:

B-2

The MND identifies that tidal marshland habitat supporting California Ridgway's rail (*Rallus obsoletus obsoletus*; previously named California clapper rail) and California black rail (*Laterallus jamaicensis coturniculus*) is present within approximately 350 feet and 600 feet from the Project site (page 37). California Ridgway's rail is listed as endangered under CESA and the federal Endangered Species Act (ESA), and is a Fully Protected species. California black rail is listed as threatened under CESA and is a Fully Protected species.

The California Ridgway's rail has lost nearly 90% of its historic tidal marsh habitat and its range is currently limited to the San Francisco Bay Area (U.S. Fish and Wildlife Service (USFWS) 2013). Similarly, the California black rail relies extensively on tidal marsh habitat and its population size has been reduced due to habitat loss and fragmentation (Spautz et al. 2005). Nesting rails are sensitive to noise and visual disturbance up to approximately 700 feet[4] from the disturbance source, which can cause nest abandonment and juvenile mortality. The MND concludes that the Project distance from the marsh habitat is adequate to reduce potential impacts to marsh species, such as rails, to less-than-significant. In addition, the MND states that baseline noise levels on-site are approximately 56 decibels and construction activities will likely cause noise levels to increase (pages 93-94). Due to the proximity of potential rail habitat and the increased noise levels from Project activities, the Project has the potential to significantly impact rails through nest abandonment and reduced health and vigor of young. To reduce impacts to less-than-significant, CDFW recommends including the following mitigation measure:

Mitigation Measure BIO-1: California Ridgway's Rail and California Black Rail Habitat Assessment, Surveys, and Avoidance

A qualified biologist shall conduct a habitat assessment for potentially suitable California Ridgway's rail or California black rail (henceforth, rail) habitat within 700 feet of the Project site. Any Project activities within 700 feet of potential rail habitat shall be avoided during rail breeding season, January 15 to August 31 for California Ridgway's rail, February 1 to August 31 for California black rail[5] each year of Project construction unless: 1) appropriately timed, yearly protocol level surveys are conducted and the survey methodology, such as the USFWS *Site-Specific Protocol for Monitoring Marsh Birds* (Wood et al. 2017), and results are submitted to and accepted in writing by

[4] A 700-foot no-disturbance buffer is based on the average home range of nesting rails (Albertson 1995).
[5] The USFWS protocol survey (Wood et al. 2017) identifies January 15 as the beginning of rail breeding season. Juvenile rails disperse during the fall and winter, hence CDFW generally considers that August 31 is the end of the breeding season (Goals Project 2000).

B-2

CDFW, and/or 2) the Project implements noise and disturbance avoidance measures described below.

Surveys shall focus on potentially suitable habitat that may be disturbed by Project activities during the breeding season to ensure that rails are not nesting in these locations.

If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight), and/or increase in ambient noise level shall occur within 700 feet of areas rails have been detected. If surveys have not been conducted, all work shall be conducted a minimum of 700 feet from potential rail habitat during breeding season.

If rails are detected during surveys or are assumed present in potential habitat, work may only be conducted during the breeding season within 700 feet of rail habitat if the Project submits a noise attenuation plan to CDFW for review and written approval. The noise attenuation plan will: 1) identify that the Project will be constructed with noise levels that do not exceed ambient noise levels, and 2) provide a map and design plan for noise attenuating fence(s) and visual barrier(s) that will be installed to prevent visual and acoustic impacts.

B-3

Nesting Birds:

The MND states the Project site is adjacent to ornamental trees and vegetation, but since the trees are not “expected to be utilized by special-status species,” no impacts to biological resources from the Project are anticipated (page 35). Many species of migratory and resident birds use landscaping vegetation for nesting purposes. Bird species that may be considered common have still declined over the past 50 years. Human activity and removal of habitat has contributed to the loss of a significant proportion of the total number of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Nesting birds may be disturbed by Project noise or human presence, which could lead to nest abandonment or reduced health and vigor of young, a potentially significant impact. To reduce impacts to less-than-significant, CDFW recommends including the following mitigation measure:

Mitigation Measure BIO-2: Nesting Bird Surveys

If construction, grading, or other Project-related activities are scheduled during the nesting season, February 1 to September 1, a focused survey for active nests shall be conducted by a qualified biologist within 7 days prior to the beginning of Project-related activities. If an active nest is found, the qualified biologist shall delineate a no-work-zone buffer distance around the nest that is site- and species-specific using high visibility fencing or flagging. The buffer distance shall be specified to protect the bird’s normal behavior and prevent nesting failure or abandonment. No work shall occur within the no-work-zone until the nest is no longer active as determined by a qualified biologist. If a

lapse in Project-related work of 7 days or longer occurs, another focused survey shall occur before Project work is reinitiated.

Non-native Ornamental Landscaping:

B-4 The MND includes a list of ornamental species that will be planted on-site, including mayten (*Maytenus boaria*), Italian stone pine (*Pinus pinea*), Australian tree fern (*Dicksonia antarctica*), coffeeberry (*Frangula californica*), parrots beak (*Lotus maculatus*), creeping fig (*Ficus pumila*), and emerald carpet (*Arctostaphylos uva-ursi x nummularia*, a manzanita cultivar) (page 12). The MND states that the identified species are "consistent" with Marin County policies to promote the use of native plant species and control the spread of invasive exotic plants (page 80). Of the proposed plants, mayten is currently on the California Invasive Plant Council (CalIPC) watch list of plants that have a high risk of becoming invasive in California in the future (CalIPC 2017). Plants considered invasive are non-native species, i.e., species that were introduced to California post-European contact, and spread in the environment displacing or hybridizing with native species and altering natural ecosystems and processes. Planting species that could become invasive is a potentially significant impact to the environment. For example, mayten could spread to the adjacent sensitive marsh habitat supporting the above rail species and salt-marsh harvest mouse (*Reithrodontomys raviventris*), listed an endangered under CESA and ESA and a Fully Protected species, or the upland habitat south of the Project site, displacing native species and disrupting ecosystem processes. Marin County Parks considers mayten invasive on some of its properties and actively removes this species to prevent its spread (Marin County Parks 2020). To reduce impacts to less-than-significant, CDFW recommends evaluating the potential for mayten and other potentially invasive species to adversely impacts nearby habitat, and if impacts could occur, removing them from the planting list.

GENERAL SUGGESTIONS

B-5 In addition to the above recommendations, CDFW encourages landscaping using native trees and shrubs to benefit native nesting birds and other wildlife. As noted above, the removal of habitat for birds from human activities has contributed to the loss of a significant proportion of birds in the United States and Canada since the 1970s. Planting native trees and shrubs is an opportunity to improve conditions for birds. CDFW recommends replacing the proposed non-native ornamental species with native species[6].

B-6 CDFW also suggests that the MND assess potential impacts from the Project to the environment that could result from sea level rise. The MND does not discuss the potential changes to habitat from sea level rise in combination with the Project. The

[6] For native species recommendations and planting tips, review the Sonoma County Master Gardener document *Gardening Success with California Native Plants*: http://www.marinrcd.org/wp/wp-content/uploads/2015/02/Gardening-Success-with-CA-Natives_UCCE_Sonoma.pdf

B-6 MND does identify that the Project building is within the FEMA Flood Hazard Area Zone and that the proposed building "would be constructed on a raised 3-foot-high concrete plinth base that would protect the building from flooding during the 100-year storm event" (pages 8 and 74). FEMA flood maps do not incorporate the impacts from climate change and often underestimate flood risks (Marcantonia et al. 2019); therefore, the 3-foot-high concrete plinth may not be adequate. Flooding of developed areas, including residential and commercial structures, can lead to the spread of toxins and contaminants in the environment (*ibid.*). While most studies of flood contaminants focus on human health, these same contaminants can impact the native flora and fauna, leading to potentially significant impacts to biological resources. CDFW recommends reviewing and incorporating sea level rise into the project design and ensuring that the Project site will not be flooded from sea level rise, in addition to 100-year storm events. Potential resources for analyzing sea level rise include Our Coast Our Future[7], the San Francisco Bay Area Summary Report of California's Fourth Climate Change Assessment (Ackerly et al. 2018), and BayWAVE: Sea Level Rise and Marin's Bayside[8].

REGULATORY REQUIREMENTS

California Endangered Species Act

B-7 Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

B-8 CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement

B-9 CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the

[7] https://data.pointblue.org/apps/ocof/cms/
[8] https://www.marincounty.org/main/marin-sea-level-rise/baywave

B-9 natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. The MND identifies Coyote Creek and an unnamed drainage ditch near the Project site but specifies no activities will occur in or near either drainage. Both drainages are subject to notification requirements if Project activities change and would impact those areas. In that case, CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

B-10 CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

B-11 Fully Protected species, such as California Ridgway's rail, California black rail, and salt-marsh harvest mouse, may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515).

ENVIRONMENTAL DATA

B-12 CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form, online field survey form, and contact information for CNDDB staff can be found at the following link: https://wildlife.ca.gov/data/CNDDB/submitting-data.

FILING FEES

B-13 The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be

B-13

operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

B-14

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Amanda Culpepper, Environmental Scientist, at amanda.culpepper@wildlife.ca.gov; or Ms. Melanie Day, Acting Senior Environmental Scientist (Supervisory), at melanie.day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Gregg Erickson
BE74D4C93C604EA...

Gregg Erickson
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse (SCH No. 2021010122)

REFERENCES

Ackerly, David; Jones, Andrew; Stacey, Mark; Riordan, Bruce. University of California Berkeley. 2018. San Francisco Bay Area Summary Report. California's Fourth Climate Change Assessment. https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf

Albertson, J.D. 1995. Ecology of the California clapper rail in the south San Francisco Bay. Thesis. San Francisco State University, San Francisco, California, USA.

CalIPC. 2017. California Invasive Plant Council Inventory. https://www.cal-ipc.org/plants/inventory/

Goals Project. 2000. Baylands Ecosystem Species and Community Profiles: Life histories and environmental requirements of key plants, fish and wildlife. Prepared by the San Francisco Bay Area Wetlands Ecosystem Goals Project. P.R. Olofson, editor. San Francisco Bay Regional Water Quality Control Board, Oakland, California. https://www.waterboards.ca.gov/sanfranciscobay/water_issues/hot_topics/Berressa/references/2000Species_and_Community_Profiles.pdf

Marin County Parks. 2020. Vegetation & Biodiversity Management Annual Report and Project List. https://www.marincountyparks.org/-/media/files/sites/marin-county-parks/projects-and-plans/vegetation-management/annual-reports/vegetationmgmt_2020_reportandprojectlist.pdf?la=en

Rosenburg, Kenneth V.; Dokter, Adriaan M.; Blancher, Peter J.; Sauer, John R.; Smith, Adam C.; Smith, Paul A.; Stanton, Jessica C.; Panjabi, Avrind; Helft, Laura; Parr, Michael; and Marra, Peter P. 2019. Decline of the North American Avifauna. *Science*: 120-124.

Spautz, Hildie; Nur, Nadav; Stalberg, Diana. 2005. California Black Rail (*Laterallus jamaicensis coturniculus*) Distribution and Abundance in Relation to Habitat and Landscape Features in the San Francisco Bay Estuary. USDA Forest Service Gen. Tech. Rep. PSW-GTR-191.

USFWS. 2013. California clapper rail (*Rallus longirostris obsoletus*) 5-year Review: Summary and Evaluation. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, CA. https://biologistshandbook.com/wp-content/uploads/2018/01/5-Year-Review-2013-1.pdf

Wood, J.K; Nur, N.; Salas, L; and Richmond, O.M.W. 2017. Site-specific Protocol for Monitoring Marsh Birds: Don Edwards San Francisco Bay and San Pablo National Wildlife Refuges. Prepared for the U.S. Fish and Wildlife Service, Pacific Southwest Region Refuge Inventory and Monitoring Initiative. Point Blue Conservation Science. Petaluma, CA. https://ecos.fws.gov/ServCat/DownloadFile/110223

Letter B

California Department of Fish and Wildlife, Bay Delta Region

B-1 In this comment, CDFW states their role as a Trustee and Responsible Agency with a requirement to comment on projects that could impact fish, plant, and wildlife resources. CDFW accurately describes the project and existing setting, and approximate distances to potentially sensitive habitats. CDFW briefly describes the presence of the immediate surrounding buildings, which include an active two-story motel, and two-story housing and commercial buildings. Additional details pertinent to the discussion include the fact that the adjacent buildings surround the project site in a greater than 180-degree arc from the west-northwest to the south-southeast. Additionally, heavily traveled driveways, roads, parking lots, and walking/bike paths are located around the remaining portions of the project. The comment does not address the adequacy of the IS/ND, and no further response is necessary.

B-2 CDFW states that tidal marshland habitat with potential to support California Ridgway's rail (*Rallus obsoletus obsoletus*)—previously named California clapper rail (CRR)—and California black rail (*Laterallus jamaicensis coturniculus*) (CBR) are located within approximately 350 feet and 650 feet from the project site and states that due to the proximity of potential rail habitat and the increased noise levels from project activities, the project has the potential to significantly impact rails.

CDFW recommends conducting a habitat assessment of areas within 700 feet of the project site, and avoiding construction during rail breeding season (January 15 to August 31) unless protocol-level surveys are conducted and nesting rails are determined to be absent. Alternatively, if rails are detected during surveys or are assumed present in potential habitat, work may only be conducted during the breeding season within 700 feet of rail habitat if the project submits a noise attenuation plan that include noise attenuating fence(s) and visual barrier(s) to CDFW for review and written approval.

The project site is located within 700 feet of tidal marsh habitat which has limited functionality to support special-status species. However, the existing conditions, including barriers to noise and visual impacts, the distance between the site and marsh habitat, and existing disturbance at the edges of the marsh habitat, preclude impacts or would reduce potential impacts to less-than-significant levels.

The project site is surrounded by existing buildings that are situated between any potential rail nesting habitat and the project; these structures would reduce any noise and visual impacts on marsh inhabitants during project construction. There is an adjacent hotel located immediately to the west and northwest, and north of the project site is a two-story continuous structure. There are also a couple of two-story buildings located immediately to the north of the project site. Three more two-story buildings are located to the east and northeast of the project site. Between the buildings to the north and the buildings to the east lie dense vegetation, a screened fence, a small outbuilding and a portion of a parking lot with up to 22 cars. Areas to the south and southwest of the project site include a heavily traveled roadway (California Highway 1), portions of the hotel parking lot, and a pedestrian and bicycle pathway. The combination of all these structures creates a continuous sound and visual break from areas beyond these structures in those directions. These physical structures, all at least 30 feet in height, would substantially reduce any noise or visual impacts to any wildlife in the nearby tidal marsh habitat within 700 feet except for those portions of fringe marsh to the west and west-northwest along the southern edge of Coyote Creek, discussed below.

The distance at which the project is located from this fringe marsh, the shortest distance being approximately 530 feet, is great enough to mitigate any impacts by itself in an urban environment. The U.S. Fish & Wildlife Service (USFWS) generally dictates a 700-foot no-disturbance buffer around nesting rails, based on their average home range[2]. However, the USFWS generally also allows for a reduced distance of 200 feet across a major slough channel or across a substantial barrier between potential California clapper rail habitat and the project activity. The structures and existing roadways and activity between the tidal marshes and the project site are considered substantial barriers and therefore reduction of no-disturbance buffers to 200 feet would be appropriate.

This fringe marsh along Coyote Creek is a thin band of solid pickleweed 5 to 20 feet in width and devoid of any channels or complex habitat required for nesting of CRR and CBR. In addition, a developed walkway (i.e., Charles F. McGlashan Pathway) is located within 20 feet of the full length of this fringe marsh. Pedestrians and bicyclists that utilize this walkway would exert much greater pressure on any potentially occurring (i.e., non-nesting) rails that may occur. The hotel driveway and parking lot are also located between this band of marsh and the project, which create exiting disturbance levels to any birds that may be present. Thus, habitat suitability for nesting rails is very low and nesting is unlikely to occur here.

[2] Albertson, J. D. 1995. Ecology of the California clapper rail in South San Francisco Bay. M.A. Thesis. San Francisco State University, San Francisco, CA.

In summary, impacts to CCR and CBR from project activities are highly unlikely to occur and, given the following existing conditions, potential impact would be less-than significant:

1) There are substantial barriers between the project and tidal marsh habitat;
2) All tidal marsh habitat is located more than 200 feet away from the project site;
3) Existing disturbance activities are, and will continue to be, present during the project at much closer distances; and
4) CCR and CBR are unlikely to breed or nest within 700 feet of the project site.

Because nesting rails are unlikely to occur, and any potential impacts would be less than significant, the mitigation measures as identified by CDFW are not warranted.

B-3 The comment asserts that migratory birds may nest in the ornamental trees and vegetation adjacent to the project site, and states that if construction is scheduled between February 1 and September 1, a nesting bird survey should occur within 7 days prior to the initiation of construction activity. If active nests are found, site- and species-specific buffers should be implemented.

Based on the presence of vegetation adjacent to the project site, nesting birds do have the potential to occur, and if construction were to be conducted during nesting activity, both visual and acoustic disturbance could cause the abandonment of an active nest. However, the potential for nest failure is not as likely as in a non-urban environment because urbanized birds are more likely to be habituated to the existing levels of disturbance. Nonetheless, project activities have the potential, even if lessened, to cause nest abandonment and failure and the mitigation as proposed by CDFW is appropriate.

The Marin County Development Code Section 22.20.040, Outdoor Construction Activities, requires that "…outdoor construction activity that involves tree removal, grading, or other site disturbances…" follow standardized nesting bird protection measures to include avoidance during the nesting season, which generally occurs between February 1 and August 15 or a pre-construction nesting bird survey conducted by a qualified biologist. The code goes on to specify actions to take if a nest is found to be present, including establishing a fenced buffer zone around the nesting tree, to be maintained until the young have fledged, as determined by a qualified biologist.

With the implementation of the required standardized County nesting bird protection measures, potential impacts to nesting birds would less than significant, and no special mitigation measures would be required.

To clarify that the project applicant would be required to comply with Development Code Section 22.20.040, thereby avoiding potential impacts to nesting birds, a text change to Section 4-a of the IS/ND has been made to include this discussion. See Text Changes to the Initial Study on page 3, above.

It should be noted that the addition of this clarifying information does not warrant recirculation of the IS/ND for another round of public review. As stated in Section 15073.5(c)(4) of the *State CEQA Guidelines*, recirculation is not required when new information is added to the negative declaration that merely clarifies, amplifies, or makes insignificant modifications to the negative declaration. Additionally, Section 15073.5(c)(2) states that recirculation is not required when new project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration that are not new avoidable significant effects.

B-4 CDFW is correct in its characterization of mayten as being on the California Invasive Plant Council (CalIPC) watch list of plants that have a high risk of becoming invasive in California in the future. Information from the 2006 Cal-IPC Inventory review[3] states that mayten is spreading from plantings in Berkeley, Marin County, and Angel Island, and is difficult to eradicate and thus eventually may be on the CalIPC Invasives list with a rating of high or moderate in the future.

Marin Countywide Plan Policy BIO-1.6 prohibits the use of invasive species in required landscaping as part of the discretionary review of proposed development. However, the landscaping as proposed is not required. Additionally, although the use of mayten may technically be "consistent" with Marin County policy to promote the use of native plant species and control the spread of invasive exotic plants, it may have potential to be invasive. Although CDFW recommends discontinuing use of mayten (and the County agrees with that recommendation), use of mayten within the planting palette does not specifically present a significant impact under CEQA.

B-5 *Marin Countywide Plan* Policy BIO-1.5 encourages the use of a variety of native or compatible non-native, non-invasive plant species indigenous to the site vicinity as part of project landscaping to improve wildlife habitat values. Although CDFW recommends using native trees and shrubs to benefit native nesting birds and other wildlife, inclusion of non-native landscaping species (as long as they are not on the CalIPC Invasives list with a rating of high or moderate) does not specifically present a non-conformity with the *Marin Countywide Plan* and therefore is not a significant impact under CEQA.

[3] California Invasive Plant Council (Cal-IPC). 2006. California Invasive Plant Inventory. Published by the California Invasive Plant Council, Berkeley, California. February.

B-6 The County recognizes that there are concerns related to sea-level rise and local conditions. BayWave documentation, the interactive Adapting to Rising Tides website, and Richardson Bay Resilience storymap highlight the work that Marin County and Bay Area Counties have undertaken to understand and prepare for the possible impacts of sea-level rise. In the storymap, adaptation approaches include raised structures, which is exactly the adaptation approach the project proposes, as well as sea walls, green streets, coarse beaches, ecotone slopes, super levees, and retreat. A key component of addressing sea-level rise is development of local and regional land use policies that include and promote adaptation approaches. Vulnerabilities to sea-level rise will need to be addressed by regional adaptation responses and implemented at the County level or by other local jurisdictions. Regional adaptation responses have begun and will continue to be required to address the vulnerabilities indicated in the above sea-level rise documentation, implemented by the County or by other local jurisdictions. The project, as proposed, is not likely to inhibit implementation of regional adaptation strategies.

The proposed project has addressed flooding and sea-level rise concerns with plans for a 3-foot raised building that will elevate the structure above flood levels and accommodate possible near-term sea-level rise conditions, and that includes provisions for re-leveling adjustments. The project will also retain or create pervious surfaces where possible, including pervious pavement parking. Stormwater runoff will be directed into a bioretention basin that will incrementally reduce stormwater discharge.

The IS/ND considered flooding risks and release of contaminants into the environment (including risks to water quality and wildlife) due to flooding in Section 10-a under Hydrology and Water Quality. The assessment concluded that because the existing condition of the site currently contains potentially toxic substances and no treatment or detention of stormwater currently exists, and that the Project proposes a Stormwater Control Plan which includes flooding and stormwater treatment systems, the Project would have a net overall benefit. Additionally, the project includes the mandatory compliance with the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements. Overall, the proposed project would have a less-than-significant impact on water quality and spread of toxins and contaminants released to the environment and impact biological resources.

B-7 It is acknowledged that a California Endangered Species Act (CESA) Incidental Take Permit (ITP) must be obtained if a project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the project. However, no take of plants or animals listed under CESA is anticipated for construction and operation of the proposed hotel and residential apartment

project, and therefore a CESA Incidental Take Permit (ITP) is not required for the project.

B-8 The comment asserts that CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. However, the project is not expected to substantially restrict the range or reduce the population of a threatened or endangered species, and would therefore not require a Mandatory Finding of Significance.

B-9 The comment cites Fish and Wildlife Code requirements for a Lake and Streambed Alteration (LSA) Agreement for project activities affecting lakes or streams and associated riparian habitat. There are no lakes, streams, or associated habitat present on the project site. Implementation of the proposed project will not divert or obstruct the natural flow of a river, lake, or stream. It will not change or use material from the bed, channel, or bank of a river, lake, or stream, including associated riparian or wetland resources. The project will not deposit or dispose of material where it may pass into a river, lake, or stream. Therefore, an LSA Agreement is not required and LSA Notification is not warranted.

B-10 The proposed project is not anticipated to disturb active nest sites or take any bird species. However, compliance with the County's standardized nesting bird protection requirements discussed in Response to Comment B-3 will ensure that the project does not conflict with Fish and Wildlife Code sections protecting birds, their eggs, and nests.

B-11 The project is not anticipated to take any Fully-Protected species and potential impacts are not anticipated to occur because of the existing barriers to noise and visual impacts, the large distance between the project site and marsh habitat, and continued existing disturbance at the edges of the marsh habitat. See the Response to Comment B-2 above for additional details.

B-12 The comment notes that CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that may be used to make subsequent or supplemental environmental determinations, and requests the County to report any special-status species and natural communities detected during project surveys to the California Natural Diversity Database (CNDDB). As requested, all species identified as being special-status within the project site during project construction activities will be reported to the CNNDB.

B-13 CDFW states that the project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. This is a standard requirement for all mitigated negative declarations, and the County will ensure that the CDFW

fee for reviewing the ND will be paid when the Notice of Determination is filed with the County Clerk. However, as summarized in the IS/ND and clarified in these responses to comments, the proposed project would not have a significant impact on fish and/or wildlife.

B-14 The comment provides contact information for further coordination with CDFW. No response is necessary.

Taylor, Tammy

From: Bereket, Immanuel
Sent: Monday, January 25, 2021 10:56 AM
To: Taylor, Tammy
Subject: FW: Water Availability Letter -150 Shoreline Hwy., MV
Attachments: 2021-01-21 WA Ltr to Marin County - 150 Shoreline Hwy., MV.pdf

Hi Tammy

I received this letter from the Water District response to the MND.

Should I be compiling these comments or forward them to you?

Manny

From: Nicole Momsen <nmomsen@marinwater.org>
Sent: Thursday, January 21, 2021 3:50 PM
To: Bereket, Immanuel <IBereket@marincounty.org>
Subject: Water Availability Letter -150 Shoreline Hwy., MV

Hello,

I am forwarding the attached "Will Serve" letter for the address given above originally sent to Kathy Petersen. Please feel free to reach out with any questions regarding this property.

Thank you,

Nicole Momsen
Engineering Technician
Office: 415.945.1531
nmomsen@marinwater.org
220 Nellen Avenue, Corte Madera, CA 94925

LETTER C

MARIN WATER

VIA ELECTRONIC MAIL

January 21, 2021
Service No. 51981

Immanuel Bereket
Marin County Planning Dept.
3501 Civic Center Dr. #308
San Rafael, CA 94903

RE: **WATER AVAILABILITY** – Redevelopment
Assessor's Parcel No.: 052-371-03
Location: Shoreline Hwy., Mill Valley

Dear Mr. Bereket:

C-1

The above referenced parcel is currently being served. The purpose and intent of this service is to provide water for commercial use. The proposed construction of a mixed use building with 10 studio apartment units and 11 studio extended-stay hotel rooms not impair the District's ability to continue service to this property. However, the property's current annual water entitlement of 0.48 acre-feet will be insufficient for this proposed development. Therefore the purchase of additional water entitlement will be required.

This project will be eligible for water service upon request and fulfillment of the requirements listed below.

1. Complete a High Pressure Water Service Application.
2. Submit a copy of the building permit.
3. Pay appropriate fees and charges.
4. Complete the structure's foundation within 120 days of the date of application.
5. Comply with the District's rules and regulations in effect at the time service is requested, including the installation of a separate water service for each structure containing water using fixtures.
6. Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. This may include verification of specific indoor fixture efficiency compliance.
7. If you are pursuing a landscaping project subject to review by your local planning department and /or subject to a city permit, please contact the district water conservation department at 415-945-1497 or email to plancheck@marinwater.org. More information about district water conservation requirements can be found online at www.marinwater.org
8. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1558.
9. Comply with Ordinance No. 429 requiring the installation of gray water recycling systems when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.
10. Comply with California Water Code – Division I, Chapter 8, Article 5, Section 537; which requires individual metering of multiple living units within newly constructed structures.

If you have any questions regarding this matter, please contact me at 415-945-1531.

Sincerely,

Nicole Momsen

Nicole Momsen
Engineering Technician

NM

Letter C

Marin Water

C-1 The comment states that the proposed project will not impair Marin Water's ability to continue to provide water service to the project site, which already exists. However, the current annual water entitlement of 0.48 acre-feet for commercial use will not be sufficient to meet the demand of the proposed 10 studio apartments and 11 extended-stay hotel rooms. The project applicant will be required to apply for high-pressure water service, and will be required to comply with the District's rules and regulations pertaining to fixtures, meters, water conservation provisions, and other requirements. The County acknowledges these requirements that the applicant will be required to meet. As discussed in Section 19-b of the IS/ND, there are adequate water supplies to serve the proposed project in all projected years during normal rainfall years, single dry years, and multiple dry years, with surplus supply remaining under all scenarios. The comment letter demonstrates concurrence with this assessment, and no further response is necessary.

Taylor, Tammy

From: PGE Plan Review <PGEPlanReview@pge.com>
Sent: Wednesday, March 03, 2021 12:21 PM
To: EnvPlanning
Cc: Taylor, Tammy
Subject: RE: 150 Shoreline Ave - P2662 and P2819
Attachments: Initial_Response_Letter_1.26.2020.pdf; No_Impact_Response_3.3.2021.pdf

Good afternoon, Tammy,

Thank you for your email. Please see the attached corrected Initial Response letter as well as our response to your proposed project.

Best Regards,

Pacific Gas and Electric Company
Plan Review Team
(877) 259-8314
Email: pgeplanreview@pge.com

From: Taylor, Tammy <TTaylor@marincounty.org> **On Behalf Of** EnvPlanning
Sent: Wednesday, March 3, 2021 11:41 AM
To: PGE Plan Review <PGEPlanReview@pge.com>
Subject: RE: 150 Shoreline Ave - P2662 and P2819

Hello PG&E Staff,

I received the email below and the attached letter from you in January. I thought the letter was relating to a project at 150 Shoreline based on the email message, but the letter itself references a different project. Was this letter sent to me in error? Do you have a response letter related to the project at 150 Shoreline Ave that you would like to submit? If so, please let me know asap. The extended deadline for comments on the environmental review ends today at 4:00 pm.

Thank you,

Tammy Taylor
PLANNER

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
415 473 7873 T
415 473 7880 F
CRS Dial 711
ttaylor@marincounty.org

From: PGE Plan Review <PGEPlanReview@pge.com>
Sent: Tuesday, January 26, 2021 3:33 PM
To: EnvPlanning <EnvPlanning@marincounty.org>
Subject: 150 Shoreline Ave - P2662 and P2819

To Whom it May Concern,

Thank you for submitting the 150 Shoreline Ave - P2662 and P2819 plans. The PG&E Plan Review Team is currently reviewing the information provided. Should we find the possibility this project may interfere with our facilities, we will respond to you with project specific comments on or prior to the provided deadline. Attached is general information regarding PG&E facilities for your reference. **If you do not hear from us, within 45 days, you can assume we have no comments at this time.**

This email and attachment does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. If there are subsequent modifications made to your design, we ask that you resubmit the plans to the email address listed below.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at (877) 259-8314 or pgeplanreview@pge.com.

Thank you,

Pacific Gas and Electric Company
Plan Review Team
(877) 259-8314
Email: pgeplanreview@pge.com

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

LETTER D

January 26, 2021

Environmenatal Planning
Marin County

Ref: Gas and Electric Transmission and Distribution

To Whom it May Concern,

D-1

Thank you for submitting 150 Shoreline - P2662 and P2819 plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.

2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.

D-2

3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management

Attachment 1 – Gas Facilities

D-3

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf

1. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.

2. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

3. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

5. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch

D-3

wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [24/2 + 24 + 36/2 = 54] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

D-3

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

Attachment 2 – Electric Facilities

D-4

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "**RESTRICTED USE AREA – NO BUILDING."**

2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.

3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&'s facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.

4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.

5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.

6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.

7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

D-4

8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (https://www.dir.ca.gov/Title8/sb5g2.html), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

March 3, 2021

Immanuel Bereket
County of Marin-Planning Division
3501 Civic Center Dr
San Rafael, CA 94903

Re: P2662 & P2819

Dear Immanuel Bereket,

D-5

Thank you for providing PG&E the opportunity to review your proposed plans for P2662 & P2819. Our review indicates your proposed improvements do not appear to directly interfere with existing PG&E facilities or impact our easement rights.

Please note this is our preliminary review and PG&E reserves the right for additional future review as needed. This letter shall not in any way alter, modify, or terminate any provision of any existing easement rights. If there are subsequent modifications made to your design, we ask that you resubmit the plans to the email address listed below.

If you require PG&E gas or electrical service in the future, please continue to work with PG&E's Service Planning department: https://www.pge.com/cco/.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at (877) 259-8314 or pgeplanreview@pge.com.

Sincerely,

PG&E Plan Review Team
Land Management

Letter D

Pacific Gas & Electric (PG&E)

D-1 The comment summarizes information on applying to PG&E for electric and gas service. The comment also states that PG&E's facilities located within or adjacent to the project site should be identified in the CEQA document. Section 19-a of the IS/ND notes that there are existing electric power and natural gas facilities serving the commercial development that surrounds the project site. The project would connect to these facilities and, other than necessary onsite infrastructure, no new construction of electric or gas utilities would be required to serve the proposed project. The comment is noted, but it does not address the adequacy of the IS/ND, and no further response is necessary.

D-2 The comment identifies additional regulatory requirements that may be applicable to the provision of gas and electric service to the proposed project. These requirements do not relate to environmental impacts, and are not within the purview of CEQA, which is the subject of this document.

D-3 The comment identifies PG&E requirements and procedures for protecting existing gas transmission pipelines located in the project vicinity during construction activities, including the requirement for a PG&E inspector to be present when construction or demolition activity come within 10 feet of a gas pipeline, along with numerous other provisions. The applicant will be required to comply with these requirements, which are applicable to all projects involving excavation in proximity to underground infrastructure, regulated under Government Code Title 1, Division 5, Chapter 3.1, Protection of Underground Infrastructure. This information does not pertain to the adequacy of the IS/ND, and no further response is necessary.

D-4 The comment identifies PG&E requirements and procedures for protecting existing electric facilities and restricting placement of new structures, equipment, or landscaping within electric easement areas. These protective measures must be observed during all construction activity. The applicant will be required to comply with these requirements, which do not pertain to environmental impacts or the adequacy of the IS/ND, and no further response is necessary.

D-5 The comment acknowledges that the proposed project is not anticipated to interfere with PG&E facilities and easement rights. No response is necessary.

Taylor, Tammy

From: J Reynolds <jrey94925@gmail.com>
Sent: Tuesday, January 19, 2021 11:33 AM
To: Rice, Katie; Rodoni, Dennis; Arnold, Judy; Connolly, Damon; Bereket, Immanuel; EnvPlanning
Subject: Request for extension on review of O'Donnell Shoreline Park Dev.
Attachments: O'Donnell Shoreline Park extension.docx.pdf

Hello Supervisors, Project and Environmental Planners ,
Please see the attached letter from the Marin Group Sierra Club requesting an extension to the Shoreline Park Dev review.

Thank you,
Jinesse Reynolds, Chair, Marin Group Sierra Club

LETTER E

SIERRA CLUB
MARIN COUNTY GROUP
Protecting the Marin environment since 1968
scmaringroup@gmail.com

January 19, 2021

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

RE: O'Donnell Financial Group, LLC, Master Plan Amendment and Design Review Mitigate Negative Declaration

Dear Board of Supervisors, Planning Commission and Tammy Taylor, Environmental Planner

E-1 We respectfully ask for an extension of the **30-day** public review and public comment for the Mitigated Negative Declaration, ending at **4:00 p.m.** on **Tuesday, February 16, 2021,** based on the following extenuating circumstances:

- This Declaration of Mitigated Negative Declaration was released on **January 13, 2021**, just days before the MLK Jr. federal holiday and the inauguration of President Elect Joseph Biden. The timing couldn't be worse, during a state of such civil unrest that the National Guard has been called out, not only to our nation's capital, but to state capitals as well.
- In the midst of a pandemic with the numbers of Covid infections rising in the county, state, and nation, public attention is diverted from county development issues.
- These are not normal times. We are approaching the one year mark of shelter in place restrictions. Marin County residents are exhausted and frustrated, especially when faced with so many problems that seem to have no easy solution. Asking the public to shift attention to a development project in Manzanita at this moment is unfair to Tam Junction residents as well as everyone who shops or drives through this extremely crowded section of US 1.
- Rushing the Master Plan through the pipeline at this time will increase public stress. It is difficult to focus on scientific facts and projections, let alone nuance, when so many more potentially dire events appear in the future.
- This project resides on landfill over historical Manzanita wetlands. The site already experiences seasonal flooding, resulting in hours long traffic delays. Marin County and other agencies in the greater Bay Area have spent time and money developing the BayWAVE report, a coordinated plan for adaptation to sea level rise. The vast majority of the county is not even aware of this document, which clearly identifies the flood hazards of this site. To rush the public review and comment period for the Mitigated Negative Declaration is likely

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scmaringroup@gmail.com

to deny a significant number of local residents their participation during these unprecedented times.

E-1

Therefore, we request that the comment period for the Mitigated Negative Declaration be extended to at least a **60-day** period to allow for a more engaged public to read, review and comment on the Environmental Review Documents posted on the County Website.

- Notice Of Availability
- Draft Mitigated Negative Declaration
- Draft Mitigated and Monitoring Program
- and other Climate Change resources such as BayWAVE.

Thank you for your consideration of this request.

Sincerely,

Jinesse Reynolds, Chair, Marin Group Sierra Club

Letter E

Sierra Club, Marin County Group

E-1 The comment requests an extension of the public review period for the IS/ND. As noted on page 1 of this document, the public review period was extended to March 3, 2021 at the request of the commenter.

Taylor, Tammy

From: Bereket, Immanuel
Sent: Thursday, March 04, 2021 10:33 AM
To: Taylor, Tammy
Subject: FW: 150 Shoreline MND Comments
Attachments: ISMND 150 Shoreline project WAM comments .pdf

Tammy

Here is another comment received yesterday.

Manny

From: LAURA CHARITON <laurachariton@comcast.net>
Sent: Wednesday, March 3, 2021 3:32 PM
To: Bereket, Immanuel <IBereket@marincounty.org>
Cc: Moulton-Peters, Stephanie <smoultonpeters@marincounty.org>; Lai, Thomas <TLai@marincounty.org>; jrey94925@gmail.com; ajarchitect@comcast.net
Subject: 150 Shoreline MND Comments

Dear Immanuel,
Attached please find the comment letter under CEQA to the 150 Shoreline Project in Mill Valley.

Sincerely,

Laura Chariton

watermarin.org (501) C3
446 Panoramic Hwy. Mill Valley, CA 94941

WATERSHED
ALLIANCE OF MARIN

415 234-9007 cell 415 855-5630

LETTER F

WATERSHED ALLIANCE OF MARIN

March 3, 2020

Immanuel Bereket
Planning Division
Marin County Community Development Agency

RE: Comment on Initial Study and Mitigated Negative Declaration on **O'Donnell Financial Group (P2231) 150 Shoreline Highway, Mill Valley, CA 94941 (Manzanita Area), Parcel 052-371-03**

Dear Marin County Planning:

F-1 The Watershed Alliance of Marin appreciates the opportunity to comment on the Initial Study and Mitigated Negative Declaration for the proposed development project at 150 Shoreline in Mill Valley.

There are numerous inadequacies, assumptions and errors in the Initial Study. This site is inappropriate for usages of a hotel and housing. This sight should not be developed for the following reasons.

F-2
- FLOODING: This area is within the FEMA AE flood zone, adjacent to two creeks and is directly in the path of current, future sea level rise (SLR)(See Appendices maps). The property area has already experienced more frequent flooding in recent times due to rising seas, King Tides and inundating winter storms because of ongoing climate change. Access to the property is impacted during those events.
The National Flood Insurance Program floodway standard in 44CFR 60.3 (d) restricts new development from obstructing the flow of water and increasing flood heights.

F-3
- EARTHQUAKE HAZARD: In an earthquake, this area is cited in MarinMaps.org as prone to the highest threat from seismic amplification and liquefaction. The entire property is fill dirt on top of the historic tidal marsh wetlands and prone to subsidence.

F-4
- CULTURAL RESOURCES: The presence of a culturally significant burial ground for the Coast Miwok (Federated Indians of Graton Rancheria (FIGR)), a federally recognized tribe, **is known** to be less than 230 feet from the property. While the IS addresses a high possibility of encountering cultural resources and even skeletal remains, the IS/MND fails to afford any semblance of a respectful solution similar to that which would be afforded any "Caucasian" ancestral remains – that is to leave the area alone and respect the dead. The intent of the

watermarin@comcast.net Watermarin.org 446 Panoramic Hwy, Mill Valley, CA 94941 (415) 234-9007

501(c)(3)EIN#46-5026355

F-4

Coast Miwok ancestors is known and verifiable by current tribal members.[1] The solution and mitigation in the MND inadequate. An unacceptable mitigation includes archaeologists being given rights to intervene and study the site over the FIGR's holding of significance of sacred sites. It is reiterated in this article[2] in the Greater Washington Newspaper related to a larger project in Marin County.

F-5

- HYDROLOGY: There is a tidal marsh blue line perennial creek that is also a tidal creek that flows through the property. The perennial, blue line creek is shown flowing directly through the property indicated on Marinmaps (see Appendix A-1) and there are tidal creeks and ephemerals on the east and south east of the property (Appendix A-2). Also, please find FEMA flood maps indicating the property is in Flood Zone AE Floodway (Appendix B). Alterations to the watercourses would be likely.[3]

---

[1] The Smithsonian by Mary Beth Griggs 4/23/14

The perspective of Greg Sarris, the chairman of the Graton Rancheria tribe, was vastly different from that of archaeologists who had worked the site. He told the *San Francisco Chronicle*:

"Our policy is that those things belong to us, end of story," said Sarris, whose tribe recently opened the Graton Resort & Casino in Rohnert Park. "Let us worry about our own preservation. If we determine that they are sacred objects, we will rebury them because in our tradition many of those artifacts, be they beads, charm stones or whatever, go with the person who died. ... How would Jewish or Christian people feel if we wanted to dig up skeletal remains in a cemetery and study them? Nobody has that right.

[2] ***Cemeteries are a Matter of Land Use - and Also a Matter of Justice, by Joanne Tang*** *12/11/18* excerpted.
Then there's the question of Native American and indigenous burials. In 2014, a developer in California built houses on a 22-acre parcel of land to that had been the site of what some archaeologists said was an incredible example of Native American life.

The Federated Indians of Graton Rancheria, the tribe whose ancestors were likely buried at the development, oversaw all of the archaeological surveying before the tribe turned it over to the developers. The tribe reburied the remains elsewhere, along with the artifacts that had been at the site. Afterward, the developer could resume construction and archaeologists no longer had access to the land or the tribal remains or artifacts.

Though the archeological community was stunned, the Federated Indians of Graton Rancheria took umbrage to the notion that it had any obligation to allow archaeologists to study its burial sites. The English, French, and Spanish colonizers who arrived in the United States had a long history of erasing Native cultures as they pillaged and took Native land for their own use. In that regard, that land likely belonged to the Graton Rancheria to begin with, and it's certainly the tribe's decision to do what it wishes with its own remains and artifacts.

[3] The National Flood Insurance Program floodway standard in 44CFR 60.3 (d) restricts new development from obstructing the flow of water and increasing flood heights. https://www.fema.gov/compensatory-storage
FEMA Alterations to Watercourses: Alterations are often made to the channels of rivers, stream, or drainageways, usually to improve drainage, relocate the channel, or to increase its flood carrying capacity. There are two requirements for maintaining the flood carrying capacity of an altered watercourse. The altered or relocated watercourse must have the same or greater capacity as the original watercourse. Additionally, once the alteration is made, the capacity of the altered or relocated watercourse must be maintained over time.

F-6

- HAZARDS FROM SEA LEVEL RISE: Sea Level Rise (SLR) (Appendices C 1,2,3) shows two maps at 1-3 feet and 1-4 feet of SLR resulting and showing property inundation. This property is also listed as the most vulnerable to the Tsunami (Appendix D) greatest amplification to seismic shaking (Appendix E).

F-7

- EXISTING HAZARDS TAM JUNCTION: Development within the setbacks of a creek that already floods Shoreline Hwy., Mazanita and Marin City should have been prohibited as per CWP bio-4. Inhabitants of the area already suffer frequent road closures and loss of any parking areas. Without solutions, this violates the tenets of social and environmental justice by further jeopardizing the health and safety of the residents of Marin City and Southern Marin and puts potential new residents of the proposed project in harm's way. The current flood issues in Marin City and Tam Junction have not yet been addressed. This proposed project would threaten the surrounding community further causing it to be physically cut-off during meteorologically and scientifically projected extreme weather and tidal events. Likely subsidence combined with flooding can quickly exacerbate the situation.

F-8

Because this area is in the Baylands Corridor, the preferred use for this area, according to the Countywide Plan, would be acquisition for open space and restoration of the property back to marshland and act as a buffer zone to protect the encroaching SLR. In the future, as sea level rises, the adjacent properties on the east side of Shoreline Highway may also need to be acquired for open space and marsh restoration. Together the soon to be inundated sites could allow for the retreat of baylands and wetlands habitat and wildlife as waters rise and provide natural protection for upland properties. For decades, planners and locals have known that the 101 Highway interchange will need to be raised.

F-9

Without the benefit of a comprehensive future State and Federal plan to deal with new highway and street infrastructure, flooding, hazards from SLR, amplified ground shaking, liquefaction and impacts to cultural resources, the project IS/MND should be rejected as inadequate and in error. The designation of "less than significant" on all the above issues shows a failure of the IS/MND to honestly address the above issues.

We, therefore find the above issues immitigable. The current project proposal is non-conforming to existing environmental circumstances and should be evaluated with an EIR.

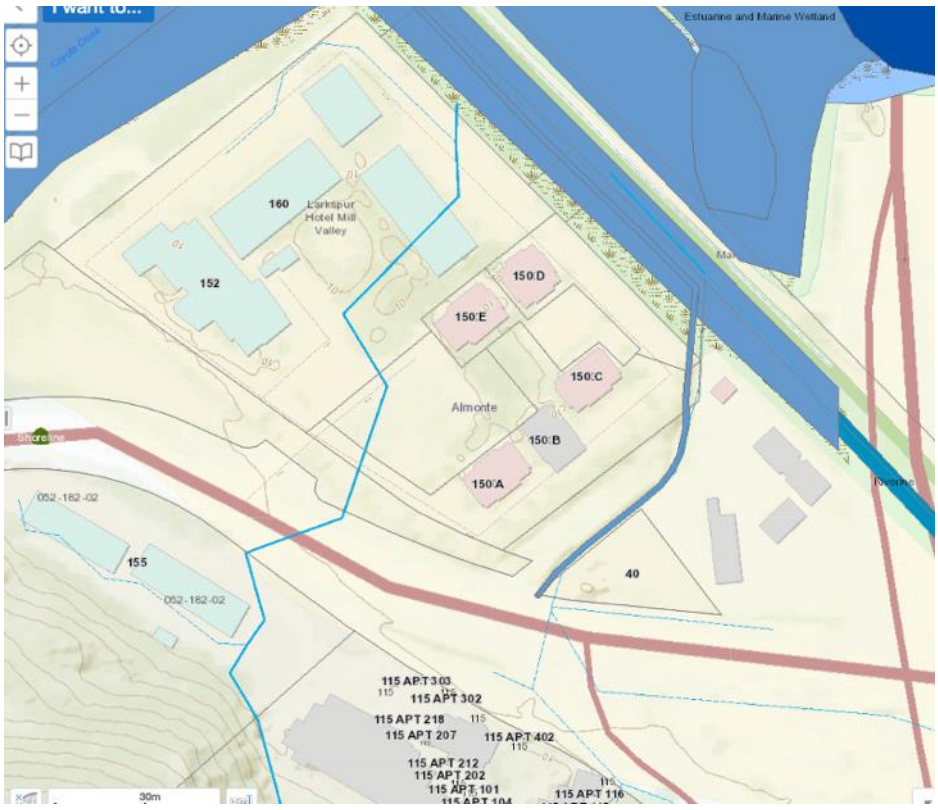
Thank you for considering our comments.

Laura Chariton, President
Watershed Alliance of Marin

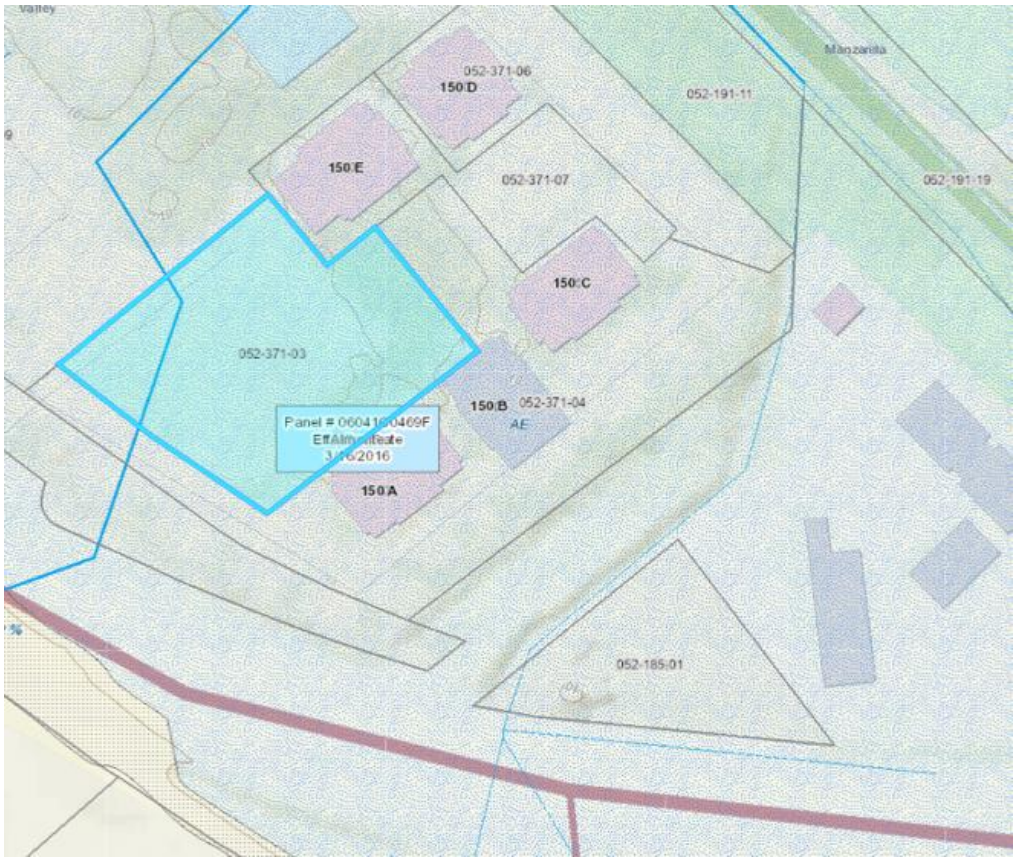
cc:
Supervisor Stephanie Moulton-Peters
Tom Lai Acting Planning Director
Alan Jones Tam Design Review Board
Sierra Club Executive Committee Marin Group

All Map attachments are from MarinMap.org

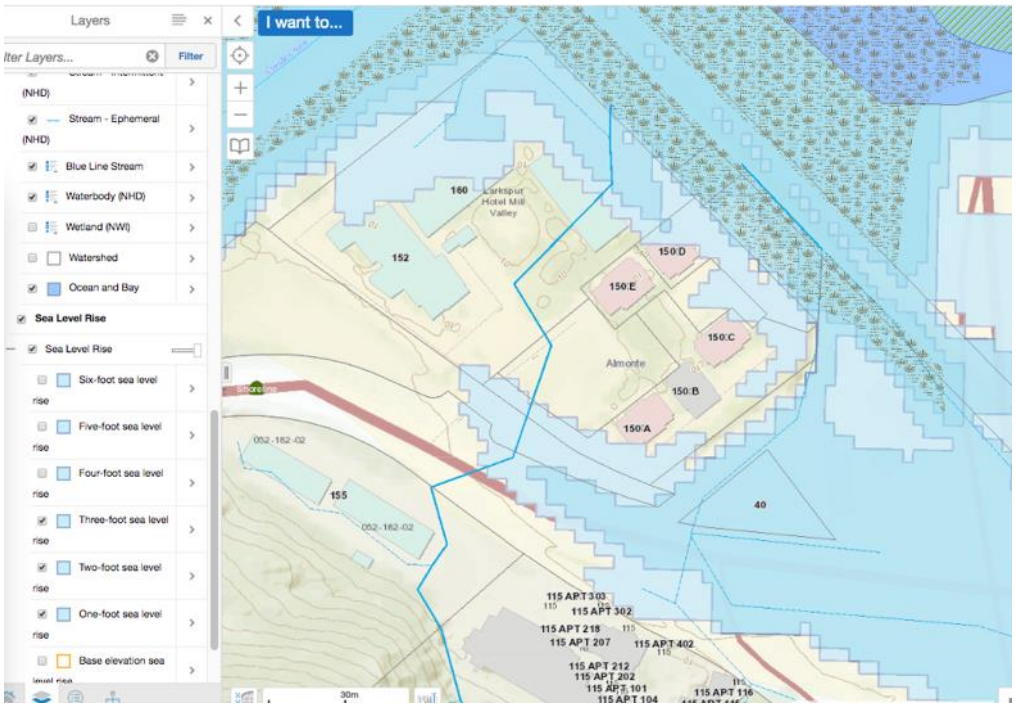
Appendix A-1: Property ID



Appendix A-2: Shows existing perennial creeks and wetlands (dark blue)

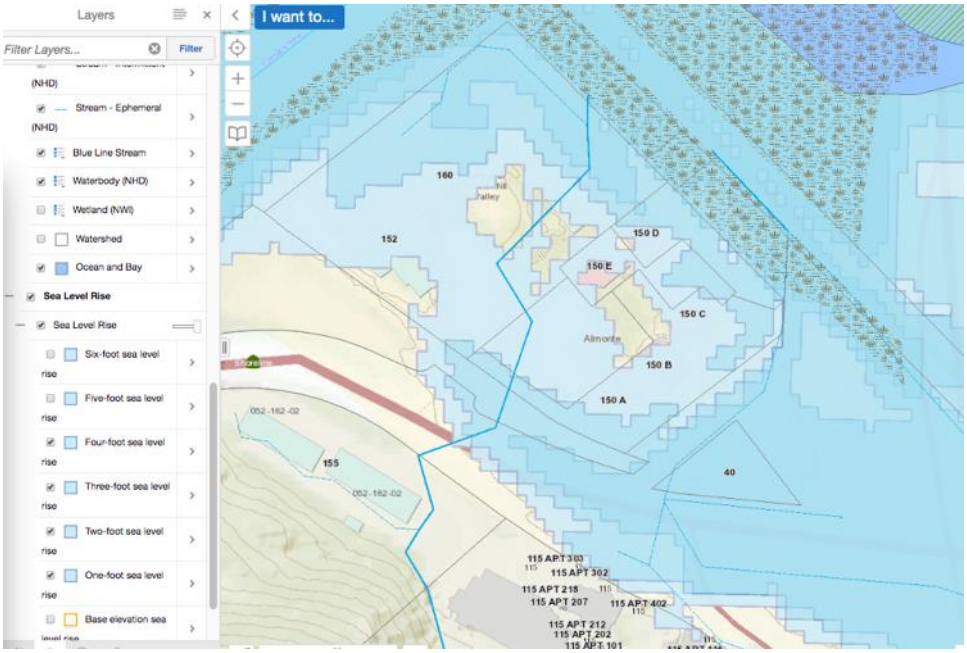


Appendix B: FEMA Flood Hazard AE Map shows entire property in the AE Flood Zone.



Appendix C-1 : 1-3 Foot Sea Level Rise

Appendix C-2: 1-3 Foot Sea Level Rise



Appendix C-3: 4 Foot Sea Level Rise

Appendix D: Tsunami Inundation Map shows complete Inundation to Highway 101

Appendix E: Seismic Shaking – Greatest Ground Shaking amplification

Letter F

Watershed Alliance of Marin

F-1 The comment includes a blanket statement that there are numerous inadequacies, assumptions, and errors in the Initial Study. Specific examples are presented in subsequent comments in this letter with no supporting substantial evidence, and they are addressed as they are set forth in later comments. The assertion that the site is inappropriate for the proposed hotel and residential uses is noted and will be considered by the County's decision makers prior to making a decision on whether or not to approve the proposed project.

F-2 The IS/ND acknowledges that the project parcel is located in the Special Flood Hazard Area (SFHA) Zone AE per Flood Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel number 06041C0469F, effective date March 16, 2018. The FEMA FIRM indicates a base flood elevation (also defined as a 100-year storm event) of 10 feet using the elevation datum NAVD 1988.

The proposed building will be constructed on a raised 3-foot-high concrete plinth base that will protect the building from flooding during the 100-year storm event. The design datum is 9.5 feet and the proposed first floor plan[4] is 12.5 feet NAVD 1988. Marin County Development Code 23.09.034(c)(1), Elevation and Floodproofing, states that "new construction… shall have the lowest floor… elevated to or above the base flood elevation." Project plans indicate that the lowest floor elevation will be 2.5 feet above the FEMA FIRM 100-year flood elevation of 10 feet.

The proposed project footprint is minor relative to the cumulative infrastructure footprint of other buildings, roadways, and bridge abutments in the area. The FEMA FIRM indicates that wide-spread coastal flooding would be the primary driver of increases in water surface elevation for the area in a 100-year storm. The proposed building will be located over 450 feet south of Coyote Creek. Bothin Marsh, situated to the north of Coyote Creek, lies at approximately 5 to 7 feet above mean sea level (msl), so the marsh and low-lying buildings landward of the marsh along Tam Junction would flood prior to buildings in the commercial development elevated above the south side of the creek. Given that a large amount of infrastructure and commercial districts along Richardson Bay shoreline are subject to base flood

[4] Douglas Herring & Associates, 2021, O'Donnell Financial Group Master Plan Amendment and Design Review, Mitigated Negative Declaration, prepared for County of Marin, California, pdf page 10.

inundation, development of this infill project would not substantially alter water levels at adjacent or nearby properties during flood conditions.

The County recognizes that there are concerns related to sea-level rise and local conditions. BayWave documentation,[5] the interactive Adapting to Rising Tides[6] website, and Richardson Bay Resilience[7] storymap highlight the work that Marin County and Bay Area Counties have undertaken to understand and prepare for the possible impacts of sea-level rise. In the storymap, adaptation approaches include raised structures, which is exactly the adaptation approach the project proposes, as well as sea walls, green streets, coarse beaches, ecotone slopes, super levees, and retreat. A key component of addressing sea-level rise is development of local and regional land use policies that include and promote adaptation approaches. Vulnerabilities to sea-level rise will need to be addressed by regional adaptation responses and implemented at the County level or by other local jurisdictions. The proposed in-fill project would not induce or exacerbate regional sea-level rise liabilities. Therefore, it would not have a related adverse effect on the environment.

With respect to sea-level rise adversely affecting the proposed project, in *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455 the Fourth District Court of Appeals ruled that an EIR (and by extension, an Initial Study to support a Negative Declaration or Mitigated Negative Declaration) is not required to examine the significant effects of the environment on a proposed project. This finding was made specifically in response to an assertion by the appellants that the subject EIR failed to discuss impacts related to sea level rise resulting from climate change.

The *Ballona Wetlands* decision was later reinforced by the well-known *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (*CBIA v. BAAQMD*) decision issued in 2015 by the California Supreme Court. As stated by the Court in that decision: "In light of CEQA's text, statutory structure, and purpose, we conclude that agencies generally subject to CEQA are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the *project's* impact on the environment – and not the *environment's* impact on the project – that compels an evaluation of how future residents or users could be affected by exacerbated conditions." As noted above, the proposed in-fill project would not induce or exacerbate regional sea-level rise.

[5] https://www.marincounty.org/main/marin-sea-level-rise/baywave

[6] https://explorer.adaptingtorisingtides.org/explorer

[7] https://storymaps.arcgis.com/stories/a45cc5e375624d6f92dab11263dcffd9

Therefore, in light of the recent CEQA case law referenced above, the project would not have a significant impact related to sea level rise.

The proposed project has addressed flooding and sea-level rise concerns with plans for a 3-foot raised building that will elevate the structure above flood levels and accommodate possible near-term sea-level rise conditions, and that includes provisions for re-leveling adjustments. In addition, the plans call for the project site to retain or create pervious surfaces where possible, including pervious pavement parking, and for runoff to be directed into a bioretention basin that will incrementally reduce stormwater discharge. Furthermore, the project has a small footprint relative to existing conditions that will not substantially impact flood levels at adjacent or nearby infrastructure and will not substantially affect the rate at which sea-level rise will impact the region. Furthermore, the project would not conflict with local or regional policies protecting the coastal environment and Richardson Bay/San Francisco Bay. Table 11-1 of the IS/ND provides a policy-by-policy analysis of consistency with *Countywide Plan* policies protecting biological resources, the Baylands corridor, open space, and water resources. As documented therein, the project would not conflict with any of the applicable *Countywide Plan* policies.

F-3 Section 7-a(iii) of the IS/ND (pages 51-52) states that the site-specific geotechnical investigation for the project determined that there is essentially no potential for liquefaction at the site because it is not underlain by loose, sandy soils. The maps provided at MarinMap.org and referenced in the comment are compiled from a variety of sources and provide information at a larger scale suitable for planning purposes, but they cannot provide the site-specific details on subsurface geology that are made accessible through onsite subsurface soil borings that were part of the geotechnical investigation for the project.

Section 7-c of the IS/ND discloses that the project site is subject to 6 to 12 inches of subsidence over the next 30 to 100 years, and the placement of new fill required to develop the project will induce additional settlement. The geotechnical investigation report provides recommendations for site preparation and building foundation design that will reduce the potential for subsidence and provide adequate structural stability to the proposed improvements.

The Marin County Building and Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report and that it complies with the current California Building Standards Code, which includes detailed structural design requirements intended to provide adequate structural integrity to withstand the maximum credible earthquake and the associated ground motion acceleration. Compliance with the applicable building codes will maximize the structural stability of the proposed building and minimize the potential for damage and injury during a strong seismic event.

F-4 As discussed in Section 18-a (pages 108-110) of the IS/ND, the County sent notification letters to the two Native American tribes who had previously requested consultation on projects occurring in Marin County, the Ione Band of Miwok Indians and the Federated Indians of Graton Rancheria (FIGR). These tribes had formally reached out to the County requesting AB52 notifications on all projects occurring in unincorporated Marin County. On July 27, 2020 the County received a letter from FIGR that requested consultation with the County regarding the project's potentially significant effects on TCRs, recommended mitigation measures, and alternatives to the project. (No response was received from the Ione Band of Miwok Indians.) The County subsequently participated in an AB 52 consultation meeting with FIGR's Tribal Heritage Preservation Officer (THPO), who noted that other archaeological resources have been confirmed on sites in proximity to the project site, and requested that a professional archaeologist be retained to conduct a Phase I Archaeological Site Assessment to further explore whether there may be such resources present on the site.

In accordance with this request, as summarized in Section 5-b of the IS/ND (pages 40-43), a cultural resources evaluation was subsequently performed by Archaeological Resource Service (ARS), which found no evidence of cultural resources eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). As noted in the discussion in Section 5-b, Section 22.20.040(D) of the Marin County Code stipulates that in the event that archaeological, historic, or paleontological resources are discovered during any construction activities, such activities must cease, and the Community Development Agency must be notified. The find must be evaluated and recorded by a qualified archaeologist, and disposition of any recovered artifacts must be done in compliance with State and Federal law. Although compliance with these existing regulations would ensure that potential impacts to tribal cultural resources would be less than significant, FIGR requested additional investigation of the site, including subsurface testing, by a Tribal Preferred Archaeologist, as discussed in Section 5. FIGR is concerned that a known shellmound deposit near the project area may extend into the subsurface of the project site. If the shellmound deposit does extend into the site, construction of the proposed project could damage or destroy the cultural information embodied in the deposit, which was identified in the IS/ND as a potentially significant impact on tribal cultural resources (TCRs). Implementation of Mitigation Measure CUL-1, presented in Section 5, would reduce the impact to a less-than-significant level.

Among other requirements, Mitigation Measure CUL-1 requires subsurface exploration of the site, prior issuance of a grading permit, by a Tribal Preferred Archaeologist, to be approved by FIGR, and coordination with FIGR on implementation of a TCR testing and recovery program. These mitigation requirements were developed in consultation with FIGR, demonstrating that they

are acceptable to the most appropriate cultural guardians who have historic and prehistoric affiliation with the project area. Therefore, the mitigation identified in the IS/ND is adequate.

In the unlikely event that human remains are encountered at the site, consistent with State law, the County Coroner must be immediately notified. If the coroner determines or has reason to believe that the remains may be those of a Native American, the coroner must notify the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then appoint a "Most Likely Descendant" (MLD). The MLD in consultation with the County, will advise and help formulate an appropriate plan for treatment of the remains, which might include recordation, removal, and scientific study of the remains and any associated artifacts. It is presumed that, in the case of the project site, the MLD would be a representative of FIGR.

Additionally, a find of human remains or other cultural resources would be subject to Marin County Development Code Section 22.20.040(E), Archaeological, Historical, and Paleontological Resources, which reads: "In the event that archaeological, historic, or paleontological resources are discovered during any construction, construction activities shall cease, and the Agency shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. The disturbance of an Indian midden may require the issuance of an Excavation Permit by the Department of Public Works, in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code."

F-5 A reconnaissance of the site by the environmental consultant who prepared the Initial Study found no evidence of a creek on the project property. This is reinforced by a review of Google Earth imagery, which also indicates that there are no creek channels flowing through the property. No existing creek channels would be altered by development of the proposed project. Underground stormwater pipes, as noted on the MarinMap Map Viewer,[8] have replaced the creek channel, and thus creek channels or tidal marshes that may have been present at the proposed project site in the past are no longer part of existing conditions.

As discussed in Response to Comment F-2, it is acknowledged that the site is within a FEMA flood zone. The project will be constructed 2.5 feet above the base flood elevation, and therefore, not susceptible to flood inundation.

F-6 Regarding sea-level rise, see Response to Comment F-2. Regarding tsunami inundation, the property is within a "red" tsunami zone,[9] which indicates the

[8] https://www.marinmap.org

[9] https://www.conservation.ca.gov/cgs/tsunami/maps

potential for complete inundation of the area, according to model predictions. Marin County[10] states that the key to tsunami preparation is to have a plan. There are no Marin County Development Code requirements related to location within a tsunami zone. Although governments may factor tsunami risks into future Development Codes, this project complies with appropriate CEQA requirements and Development Codes and is not subject to additional conditions. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

As discussed in Section 7 of the IS/ND, seismic shaking at the site is likely in the event of a sizeable earthquake in the region. The geotechnical investigation report prepared for the project states that during a major earthquake on the San Andreas or Hayward faults, peak horizontal ground accelerations of 0.5 g or greater can be expected at the site. However, the California Building Code requires a site-specific geotechnical investigation with site preparation and foundation design recommendations, which are included in a geotechnical report[11] for an adjacent site (156 Shoreline Highway) that was recently updated as a soils report[12] for the proposed project at 150 Shoreline Highway.

The Marin County Building and Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report and that it complies with the current California Building Standards Code, which includes detailed structural design requirements intended to provide adequate structural integrity to withstand the maximum credible earthquake and the associated ground motion acceleration. Compliance with the applicable building codes will maximize the structural stability of the proposed building and minimize the potential for damage and injury during a strong seismic event.

F-7 The proposed project would not exacerbate the existing or anticipated regional impacts to road closures related to flooding issues or sea-level rise. Vulnerabilities to residential and commercial buildings, roads, parking areas, and other regional assets will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. Adaptations to sea-level rise vulnerabilities are particularly important at Tam Junction, Almonte, and Tamalpais Valley, where many residential and commercial buildings are at elevations of

[10] https://www.marincounty.org/main/county-press-releases/press-releases/2017/so-tsunami-032717

[11] John C. Hom & Associates, Inc., *Geotechnical Report, Proposed Office Building, 156 Shoreline Highway, Mill Valley, California*, 2009.

[12] John C. Hom & Associates, Inc., *Soil Engineering Report Update, Proposed Office Building, 150 Shoreline Highway, Mill Valley, California*, 2019.

approximately 7 to 9 feet msl. In comparison, the proposed project plans to build at a flood-adapted 12.5 feet in elevation.

IS/ND Section 11(b) Table 11-1, pages 80-85, considered a number of *Countywide Plan* (CWP) elements. The desired outcomes of CWP Bio-4,[13] however, were not considered in the IS/ND. Those desired outcomes are to protect, and where possible, restore the natural structure and function of riparian systems by restricting land use within a stream conservation area (SCA) of a minimum 50-foot setback for a project between 0.5 to 2 acres. The proposed project footprint is approximately 0.59 acres and a minimum of 450 feet from the southern bank of Coyote Creek and would not interfere with protection or restoration of riparian areas. Refer to response to comment F-2 for discussion that indicates this infill project would have a less-than-significant impact on existing drainage patterns.

The soils report indicates that settlement due to existing fill of 15 feet over highly compressible Bay Mud may be about 12 inches over the next 100 years. Settlement due to foundational loading is not expected to exceed 3 inches, which would be offset by provisions for re-leveling adjustments as recommended by the geotechnical report. The building would still exceed the currently effective FEMA flood elevation by 1.25 feet under this scenario, and thus the project meets the appropriate Development Code requirements.

F-8 The proposed project would not exacerbate the existing or anticipated regional impacts to marshes near the project site. The project would not affect the supply of sediment to the marshes. As discussed in Response to Comment F-2, vulnerabilities to marshes along the Baylands Corridor will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The project site is only 0.59 acres, is a previously developed parcel, and is surrounded on all sides by existing development, and thus would not act as a buffer zone from sea-level rise.

In addition, the proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby development. The proposed project has addressed flooding and sea-level rise concerns with plans for a 3-foot raised building that will elevate the structure above flood levels and accommodate possible near-term sea-level rise conditions (including provisions for re-leveling adjustments of the pad). See Response to Comment F-2 for additional discussion.

With respect to consistency with the *Countywide Plan*, the *Countywide Plan* assigns the project site and surrounding parcels a land use designation of General Commercial/Mixed Use, which allows mixed-use residential development. The

[13] https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/county-wide-plan/cwp_2015_update.pdf, pdf page 71

project site is within a CP-Planned Commercial Zoning District, and Section 22.12.020 of the Development Code which allows lower-intensity commercial retail shopping, office facilities, and residential uses in Planned Commercial zoning districts. The mixed-use redevelopment project is thus consistent with the *Countywide Plan* land use designation and with applicable zoning regulations. Table 11-1 of the IS/ND lists relevant Baylands Corridor policies from the *Countywide Plan* and explains why the project would not conflict with any applicable policies.

F-9 The IS/ND adequately identifies the potential adverse environmental effects that could result from implementation of the proposed project. As detailed in the IS/ND, no potentially significant impacts or unavoidable significant impacts have been identified, and therefore there is no requirement under CEQA or the Marin County Environmental Impact Review Guidelines for the County to prepare an EIR for the proposed small infill project. The issues of flood hazards, sea level rise, and seismic ground shaking referenced in the comment are addressed in the preceding responses to this comment letter.

LETTER G

Linda Rames
240 Morning Sun Avenue
Mill Valley, CA 94941

Re: Environmental Review
O'Donnell Financial Group
150 Shoreline Highway
Mill Valley, CA
AP: 052-371-03

February 1, 2021

G-1

We have read the mitigated negative declaration for this property and wish to comment on same. We are amazed at the conclusions of this environmental review by the County of Marin.

1. This property is across the road from the Manzanita parking lot which floods at most high tides and always when there is a king tide. Yet, this report finds no physical changes that would cause social or economic impacts. The property is in the Baylands Corridor and on a flood plain, yet the report does not mention either fact. Nor does it mention the danger to drivers and pedestrians on this road during these times of flooding.

G-2

2. The report finds that there are no environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. We think building on a well known flood plain will cause detrimental environmental effects both directly and indirectly for humans who need to access the hotel/restaurant next door and the office buildings behind the subject property. Wading through flood water is detrimental to the health of humans, and trying to access the buildings by auto would be dangerous during flooding. Both would cause adverse effects to the businesses in this area.

G-3

3. The proposed floor area ratio is 44.3% while the county wide plan calls for 30% FAR. The design calls for a 30 ft. height above surrounding grade but does not speak to fill which would most likely have to be added to the existing lot. What is the real height after fill has been placed?

G-4

We feel this report is poorly researched and does not clearly explain the effects on the surrounding neighborhood or those who must use this road daily. While we understand the developer is providing 10 rental units, only 2 are for low income residents. This is hardly enough to permit a development which will be an ongoing problem for the residents of Marin County.

Sincerely,

Linda & Robert Rames

Letter G

Linda and Robert Rames

G-1 The comment asserts that there is no mention of the Baylands Corridor in the IS/ND. However, it is stated on page 79 of the IS/ND that the project site is located within the Baylands Corridor, and Table 11-1 lists relevant *Countywide Plan* policies applicable to the Baylands Corridor, and evaluates the project's consistency with each of those policies.

The comment also asserts that there is no mention of the project site being located within a floodplain. To the contrary, it is stated on pages 2 and 74 of the IS/ND that the site is located within a floodplain, as designated by the Federal Emergency Management Agency (FEMA). While it is acknowledged that there is an existing flooding problem in the Manzanita park-and-ride lot opposite the project site, the proposed project did not create this problem and would not exacerbate the problem. In fact, as discussed in Section 10-c(ii) of the IS/ND, stormwater runoff from the project site would be *reduced* under post-project conditions. Thus, the project would have a minor incremental beneficial effect on local flooding.

The comment states that the IS/ND does not discuss the danger to drivers and pedestrians on Shoreline Highway during times of flooding. This is a pre-existing condition that the project would not contribute to. The purview of CEQA is to disclose impacts to the environment that could result from implementation of a proposed project. The issue of driver and pedestrian safety in this instance does not fall within this purview. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

G-2 The project's potential impacts on flooding are discussed in Section 10-c(ii) of the IS/ND. As noted therein, the project would reduce storm runoff in comparison with existing conditions, and would therefore have no impact on the environment, which is the purview of CEQA. As noted above, in accordance with recent case law, CEQA does not encompass potential impacts of the environment on a project, including project occupants. Therefore, the concerns about future residents, guests, and employees "wading in flood waters" is not a CEQA issue.

G-3 The proposed FAR exceeds the maximum density permitted under Countywide Plan, the Tamalpais Area Community Plan, the Marin County Development Code due to

application of the State Density Bonus Law, Government Code section 65915 et seq. For detailed analysis, please refer to the project documents.

Regarding the height of the proposed building, the height information presented on page 8 of the IS/ND is relative to existing grade. Based on the preliminary grading plan, the finished site elevation would be approximately the same as the existing elevation. This is not a CEQA issue and no further response is necessary.

G-4 The comment asserts that the IS/ND is poorly researched and does not clearly explain the project's effects on the surrounding neighborhood, but does not specify how the document is deficient or cite any examples. The issues raised in Comments G-1 through G-3 have been addressed above in the corresponding responses. The implied opposition to the proposed project is noted and will be considered by the County's decision makers prior to making a decision on whether or not to approve the proposed project.

LETTER H

Taylor, Tammy

From: Pam Keon <p.keon@icloud.com>
Sent: Tuesday, February 02, 2021 12:09 PM
To: EnvPlanning
Subject: O'Donnell Project

Tammy Taylor
Environmental Planner
County of Marin

Dear Ms. Taylor -

(I tried using the link on https://www.marincounty.org/depts/cd/divisions/environmental-review/current-eir-projects/o-donnell-mitigated-negative-declaration for contacting you, but it failed to send.)

In response to the Mitigated Negative Declaration concerning the O'Donnell project at 150 Shoreline Highway, Mill Valley, my concerns follow.

H-1 Although the environmental review for this project refers to the impact of a 100-year flooding event, there does not seem to be any acknowledgment of the predicted near-future regularly occurring impacts of Sea Level Rise on the area immediately around and including this project. I believe that there is abundant information about the predicted amount of Sea Level Rise in the next 10 to 15 years available through the Marin County Department of Public Works as well as Marin County Parks. This information should be incorporated into any evaluation in order to fully understand the impact of the project beyond the day it is potentially approved.

Thank you very much,

Pam Keon
Tamalpais Valley resident
Chair, Tamalpais Valley Neighborhood Response Groups Network

Letter H

Pam Keon

H-1 The issue of sea level rise and attendant flooding is addressed extensively in Comment Letter F. Please see the responses to that letter.

LETTER I

Taylor, Tammy

From: Janet Weiner <janet@janetrockstar.com>
Sent: Wednesday, February 03, 2021 12:59 PM
To: EnvPlanning
Subject: APN 052-371-03 PROEJCT IDS P2662 & P2819

Dear Immanuel Bereket, Senior Planner
Marin County

I have just received the notice of extended comment period for the subject property.

I-1 I own the adjacent property at 150 Shoreline Highway Bldg E MV CA 94941.

I have concerns:
Will this property be fenced on the northern & Western sides?
Do you have time requirements for construction start/finish?

Please let me know.

Thanks.

Janet Weiner
janet@janetrockstar.com
ph/mobile: 415.686.5543

Letter I

Janet Weiner

I-1 The proposed landscape plan indicates that there will be a perimeter fence enclosing the garden at the front of the building, and a fence screening utility boxes in the southeast corner of the site. Fencing along the site perimeters is not currently proposed. The start date of construction is not known and will depend on when and if the project is approved. Information on the expected duration of construction is provided on page 12 of the IS/ND. The comment does not address the adequacy of the IS/ND, and no further response is necessary.

LETTER J

Taylor, Tammy

From: Bhupen Amin <bhupen@lotushotels.com>
Sent: Saturday, February 27, 2021 3:45 PM
To: EnvPlanning
Subject: O'Donnell Financial Group Application at 150 Shoreline Ave, Mill Valley

Dear Tammy Taylor,

J-1 Please accept this letter as our formal objection to this project and outline of our comments to the Draft Mitigated Negative Declaration of this project.

J-2 We have the following comments to the Draft Mitigated Negative Declaration:

1. The engineer correctly identifies significant Tribal Cultural Resource risks at this site. The history of the area suggest that serious, irreversible damage can be caused by development of this site. The mitigation measures appear inadequate as currently presented, and additional research and consultation with experts is clearly required before any additional action can be taken.

J-3 2. The engineers fail to properly analyze the serious parking and traffic consequences of this development. Parking is essentially ignored in the report and should be more fully explored and evaluated, in light of the severe parking shortage already in existence for the current office, restaurant, residential and hotel users. The proposal does not effectively calculate the additional overnight and residential guest parking needs, most of whom will have two vehicles. This study should be more thoroughly analyzed in the report's Land Use and Planning section.

J-4 3. The Land Use and Planning Section should also properly evaluate the affects of permitted Short Term Rentals at this location. The unique consequences of ongoing daily and weekly rentals to out-of-towners raises additional security, noise, trash, policing, parking, code enforcement and safety needs. These factors have not been adequately evaluated in the report. The County is apparently in the process of formulating a Short Term Rental ordinance, and this project should be reviewed and analyzed under those proposed conditions and operating requirements.

J-5 4. The Land Use and Planning Section should also fully analyze the proposed General Plan Amendment required here. The report short-cuts this analysis and simply supports the need for an Amendment without effectively explaining the substantial justification. A General Plan Amendment should only be employed in the most urgent situations where major changes are required to support the health, safety and services of the community. This project adds very little to the surrounding area or neighborhood, yet seeks the most significant planning modification possible. Such an amendment is not justified here.

Thank you for your consideration.

Respectfully submitted,

Bhupen Amin
160 Shoreline Ave
Mill Valley, CA

Letter J

Bhupen Amin

J-1 The comment noting objection to the project is noted and will be considered by the County's decision makers prior to making a decision on whether or not to approve the proposed project.

J-2 Please see Response to Comment F-4.

J-3 Parking is no longer considered an environmental effect subject to CEQA review, which is the subject of this document.

J-4 Evaluating the noise, parking, and other effects of short-term rentals is also not a CEQA issue within the purview of this document. Furthermore, the proposed project does not include short-term rentals, and there is no reason to expect that the project would be used for short-term rentals. It is intended to provide extended-stay hotel rooms and rental apartments that are anticipated to be occupied as primary residences by local citizens.

J-5 A General Plan Amendment is not required for the project. As discussed in detail in Section 11 of the IS/ND, the proposed use conforms with the site's General Plan land use designation of General Commercial/Mixed Use (GC), which allows mixed-use residential development such as that proposed. The project is also consistent with allowable density and applicable *Countywide Plan* policies. See Section 11 of the IS/ND for additional details.

As stated on page 11 of the IS/ND, a Master Plan Amendment is required for the proposed project because the project site is covered under an existing Master Plan that would be amended. The Master Plan is separate from the *Countywide Plan,* and provides a conceptual framework and development regulations for development of the project site and surrounding parcels. It was originally intended as a development plan for a Howard Johnson restaurant and motel proposed in 1969, and it stipulated that it pertained only to that development, thus requiring amendment for the different use currently proposed.

LETTER K

Taylor, Tammy

From: Mickey Allison <mickall1@yahoo.com>
Sent: Tuesday, March 02, 2021 11:37 AM
To: Bereket, Immanuel; EnvPlanning
Subject: Question regarding Mitigated Neg Dec O'Donnell Financial Group Master Plan

Good Morning.

We would like to confirm the following

K-1 The fact that a gas station was originally on the parcel under question and removed in 1994 taken into account fwhile preparing the Mitigated Negative Declaration?

Is there documentation that the tank and all toxic soils were removed?

K-2 We confirmed that Marn Conservation League Newsletter, pages 5 & 8: **Tam Valley project raises question of sea level ris**e had objected to similar project in 2011, but did mention status of any removal of the gas tank or toxic soils.

http://www.marinconservationleague.org/images/stories/Newsletters/nl11b_marapr_web.pdf

Thank you in advance for answering these questions,

Mickey Allison

Tammy Taylor <envplanning@marincounty.org>

Letter K

Mickey Allison

K-1 Please see Response to Comment L-3.

K-2 The comment on the proposed project is noted and will be considered by the County's decision makers prior to making a decision on whether or not to approve the proposed project. It does not address the adequacy of the IS/ND.

LETTER L

TO: Tammy Taylor, Environmental Planner
Immanuel Bereket, Project Contact
Marin County Board of Supervisors:
Damon Connolly, District 1
Katie Rice, District 2
Stephanie Moulton-Peters, District 3
Dennis Rodoni, District 4
Judy Arnold, District 5

March 3, 2021

RE: Request for denial of the O'Donnell Financial Group, LLC. Master Plan Amendment and Design Review Mitigated Negative Declaration

L-1 Marin County Board of Supervisors has an opportunity to exercise environmental stewardship by taking a proactive step in denying the O'Donnell Financial Group's Development Master Plan for 150 Shoreline Hwy located near the transit hub in Manzanita that is already flood prone during high/king tide and/or storm surge events.

I strongly urge that you, like your predecessors, deny any building permit for this project at 150 Shoreline.

L-2 The site was originally developed as a gasoline service station, and was 5,913 square foot removed in 1994. A proposal by Southern Oil Company to construct a building grocery store and delicatessen with three second-floor condominium residential units (one of them affordable) on a roughly half-acre disturbed site received a Negative Declaration in 2011. The project was not completed, and it became a storage area for all sorts of vehicles and equipment.

The Marin Conservation League's argument against this development appeared in their News Magazine and must have swayed opinion because the project was not built and vacant parcel was a storage area for all sorts of vehicles and equipment. See Exhibit 1, attached or link: NL11B_MarApr.indd (marinconservationleague.org)

L-3 Now, in 2021 history is repeating itself, with a Mitigated Negative Declaration for a much larger, 11,321 square foot building proposed by the O'Donnell Financial Group. In the intervening, almost 10-years, the County has become much more proactive in its efforts to face that Climate Change and accompanying Sea Level Rise is a reality and an existential threat not only to shoreline communities, but Marin County as a whole.

While reading the BayWave document about near, medium and long-term scenarios of Seal Level Rise and Storm Surge, and MCL's 2011 article some questions arose: Was the gasoline storage tank removed in 1994? Was the soil and subsoil tested for toxic substances in 1994 and again for this current project? Can County Planning assure the public, that with sea level rise, no harmful contaminants will leach into the bay?

L-4 This letter focuses on mostly on Near-Term impacts on Infrastructure created with quotes, charts and photos from **BayWave, Community Profile: Unincorporated Marin** published June 23, 2017, pages 295 through page 343. Source: *005_unicorporatecommunity_profiles_baywave_va_17_06_23.pdf*

Marin Shoreline Sea Level Rise Vulnerability Assessment: Introduction, page 295

- "In the near-term, 3,450 acres could be exposed to sea level rise. By the long-term, 8,644 acres could be exposed to sea level rise and 9,196 acres could be exposed with an additional 100-year storm surge."

L-4

- "In the low lying exposed areas in nearly every community, except Kentfield, subsidence is an ongoing issue that sea level rise could only exacerbate. This impacts buildings, roads, and utility infrastructure."
- "Several key roads, including, Shoreline Highway from the Manzanita Park and Ride to Tam Junction, US Highway 101 in Marin City, Waldo Point Harbor, and Greenbrae..... These roads could anticipate more frequent tidal impacts and more severe storm impacts sooner than later".

L-5

Land: "Land is a scare resource in Marin County. Sea level rise would only reduce the available dry land even further, displacing tens of thousands of people." (Page 298)

- **Acres: "Table 119. Acreage Exposed by BayWave Scenario"**, page 298

Location	Near-term		Medium Term		Long-term	
Acres Lost	1	2	3	4	5	6
Almonte	99	137	115	146	146	157
Tamalpais	0	28	1	29	28	30

"Many of the unincorporated communities are in, near, or depend on low lying flood prone areas and require stormwater engineering to stave off the impacts of seasonal flooding. Sea level rise could exacerbate this seasonal storm flooding, and in some cases, could flood out an entire community."

- **Table 120, Vulnerable Parcels, Near-Term:** page 299

Near-Term	Scenario 1		Scenario 2	
Parcels Lost	#	%	#	%
Almonte	22	32	46	68
Tamalpais	0	0	97	4

As shown in Table 120, in near-term scenario, multiple parcels could be flooded at MHHW with a 100-year storm surge including the Dipsea Café.

Dipsea Café along Coyote Creek. King Tide, Nov. 25, 2015. Credit: Marin County CDA

Page 299; "The top three under storm surge conditions are: #3 Tamalpais Valley, 97 parcels." Almonte, one of 4 small communities mentioned "could experience tidal and storm flooding on a large portion of their developed area." King Tides and 50 to 100 –year storm surges are already creating traffic through Tam Valley and at the Hwy 101/Hwy 1 junction. These events are likely to occur with greater frequency, not lessen with SLR. Scenario 2 storm surge can add a foot or more to existing sea levels.

Medium Term Scenarios 3 & 4, page 299 specifically states that, "Almonte is the second most compromised with 64 percent of existing parcels flooded. In unincorporated Marin, in medium-term scenario 4, 20 inches of sea level rise with a 100-year storm surge, these levee breaches could facilitate flooding about 1,400 parcels.", and in the Long-term Scenarios the most compromised community by percent of community is Almonte, 100%. "Almonte is an essential regional asset and through way to West Marin, Mill Valley, and the Marin Headlands."

L-6

Buildings: "Buildings typically provide the most function and direct benefit to human activities, are costly to repair or replace, and contain valuable personal or business property."

- **Table 123, Vulnerable Buildings, Near Term [15 years]:** page 301

Near-term	Scenario 1		Scenario 2	
Buildings Lost	#	%	#	%
Almonte	7	1	63	7
Tamalpais	0	0	100	3

Business and homes built on former marshland along Coyote Creek will be flooded by storm surge in the Near-term. Road flooding in this area will affect access and egress to communities in West Marin, Mill Valley, and Marin Headlands. Flooding at Manzanita and at the Hwy 101/ Sausalito- Marin City interchange will be similarly impacted, creating backups to and from San Francisco.

Almonte, Tamalpais Valley, page 303: Housing at risk is in the low-lying area off Coyote Creek where it meets Bothin Marsh. These homes are protected by earthen berms or levees and pump stations for stormwater that stave off current high tides. However, with a combination of stormwater, storm surge, and high tide the area can flood. Sea level rise could exacerbate this in the near-term. Storm surges in the medium-term could impact 100 properties. By the medium-term, a couple of properties could anticipate tidal MHHW flooding. In the long-term, nearly 100 properties could anticipate tidal impacts at MHHW. These properties are a relatively small portion of the housing stock in the community.

Manzanita Area during king tide. Nov. 25, 2015. 10:40 a.m

- **Vulnerable Buildings FEMA HAZUS Estimates, Long Term Scenario 6, 2016 dollars**, Page 311

Location	Yellow Tag Minor Damage $5,000/building minimum	Orange Tag Moderate Damage $17,001/building minimum	Red Tag Destroyed Assessed Structural value
Almonte	$530,000	$1,802,106	$347,738,121
Tamalpais	$515,000	$$1,751,103	$22,654,207

- Page 310, commentary: "Taking a closer look at the buildings across the unincorporated Marin communities, the majority of buildings could experience up to three feet of tidal flooding across scenarios 1, 2, and 3 with roughly 100, 250, and 1,200 buildings respectively. In [Near-term] scenario 1, almost 20 buildings could anticipate more than three feet to six feet of flooding."

Buildings on parcels accessed from Pohono St., as well as those on the bay side of Shoreline near the Manzanita Park and Ride fall into the FEMA HAZUS Estimates. They will flood sooner than later.

Previous flooding can be a teachable moment: A January 7, 2005 storm destroyed the electronics of multiple vehicles whose owners did not move their cars to higher ground when heavy rains were

L-7

L-7

predicted. Instead a dozen or more cars were left in Issaquah Dock's parking lot during a 6"9" tide. Weeks of rain up to 5000-feet created a large snow melt in the Sierras swelling rivers and streams.
Combined with a low pressure storm directly overhead, the storm surge raised the normal 6'9" tide's water level significantly, flooding Issaquah's entry to almost 3-feet. This Gate 6 Road photo was taken shortly after the rain stopped and the tide had been ebbing for an hour.

Gate 6 Road from Issaquah Dock, January 7, 2005. Photo: M. Allison

.

The Almonte area is already seeing king tides even on sunny days as shown on the right. Add stormy scenario like the above and Shoreline Hwy will flood as well. In the near term if parking lots flood, visitor resident and guest vehicles could be destroyed by salt water incursion, while O'Donnell building's ground floor, at least 3-feet higher than adjacent buildings, would be high and dry. Lower, neighboring buildings might also suffer water damage

Miller Avenue at Bothin Marsh, Mill Valley. King tide, Nov. 25, 2015. Credit Marin County DPW. Source, page 359: 006_conclusion_biblio_appens_baywave_va_17_06_24.pdf

L-8

Transportation: Page 312

"Transportation impacts could be the main issue in several communities, where shut downs and detours, if possible, would impact many more people than properties. In addition to over land flooding that could damage the road surface, roads could be vulnerable to erosion and subsidence. Several locations already experience seasonal flooding, such as Manzanita, that prompt several-hour traffic delays. These events could increase in frequency and intensity, potentially to unmanageable and unbearable chronic flooding. The most vulnerable high capacity roads in the unincorporated communities are:

- "Shoreline Highway from the Manzanita Park and Ride to Tam Junction in Almonte and Tamalpais Valley," is listed first, indicating it is the most impacted.
- "Marin City could experience impacts to overland flooding from sea level rise on Highway 101, Donohue Street, and Drake Avenue at the off ramp from 101 south extending into the community. When these roads flood from stormwater and high tides seasonally, it can create extensive traffic backups along 101, and eliminates all vehicular access to and from Marin City. In addition, US Highway 101 already suffers from subsidence. This is evident by two large bumps from the sanitary sewerage pipes crossing underneath. According to Sanitary District engineers, the highway is sinking around the pipes. Disruptions in this system could also greatly impact essential transit service."

- **Table 128, Unincorporated Marin Roads Vulnerable to SLR and a 100-year Storm Surge**, p 313-315.

Location	Near-term, Scenario 1	Near-term, Scenario 2
Almonte		Hwy 101, Bolinas St, Pohono St, Shoreline Hwy
Tamalpais		Shoreline Hwy, Almonte Blvd, Cardinal Ct, Cardinal Rd, Flamingo Rd.
Waldo Point	Gate 6 Dock, Gate 6 Rd	Gate 6 ½ Rd, Liberty Dock

L-8

Almonte & Tamalpais Valley, page 316

- "Nuisance flooding already burdens Almonte and Tamalpais Valley multiple times a year. Two major interchanges, commonly known as Tam Junction and Manzanita, are the gateway to Muir Woods, the Marin Headlands, and Mill Valley, where US Highway 101, Shoreline Highway, and Miller Avenue come together. Shoreline Highway at the US Highway 101 off ramp already suffers seasonal flooding and could expect tidal flooding of up to two feet in the medium-term. The Manzanita interchange is undergoing engineering studies to better manage the storm and tidewaters that prevent traffic flow for commuters, transit riders, visitors, and locals. Tam Junction could expect tidal flooding in the long-term. Nearer Coyote Creek, Shoreline Highway could expect flooding in the medium-term. Neighborhood roads vulnerable border Coyote Creek, and could expect tidal flooding impacts if the creek tops its banks. Of note, school aged children not be able to get to school via Miller Avenue, which floods now seasonally, and could expect tidal impacts in the medium-term."
- "Transit also travels through area. In fact, the Manzanita park and ride lot serves as a transit hub for commuters that park their cars under the freeway overpass. Golden Gate Transit, Marin Transit, the Marin Airporter, Sonoma Airport Shuttle, private company employee buses, such as Genentech, and others pick-up commuters from the Manzanita site. The lot already experiences flooding during seasonal high tides and storm event combinations. By long-term scenario 5, the lot could be vulnerable to high levels of flooding multiple times a month several months of the year. Transit also travels through Tam Junction. The shuttle and parking area for taking visitors to West Marin is based in the vulnerable area as well."
- "Hundreds of bicyclists take on Shoreline Highway and use the Mill Valley/Sausalito Pathway, and each could be tidally flooded by the medium-term. Additionally, the walking path along Coyote Creek that is part of the Bay Trail on top of the levees protecting lower Tamalpais Valley is vulnerable."

L-9

Utilities: page 321

"Every unincorporated community is dependent on regional and local utilities. To get a full picture of utility concerns for the whole county read the Utilities Profile. Every community in the study area could expect the following utility vulnerabilities:

- Underground pipes facing compounding pressure forces from water and the road,
- Road erosion and collapse with underlain pipes,
- Saltwater inflow and infiltration can cause inefficiencies in wastewater treatment,
- Continuously subsiding soils or fill, and
- Pump stations in storm water and wastewater systems could expect escalating activity and capacity demands, more energy consumption, and wear and tear."

- **Vulnerable Waste Water/Sanitary Services:** page 321, "Most of Marin's unincorporated communities depend on service providers with headquarters and facilities in incorporated areas. For example, the six sanitary districts serving in Almonte, Tamalpais Valley, and Strawberry send their effluent to the SASM wastewater treatment plant in Mill Valley"

L-10

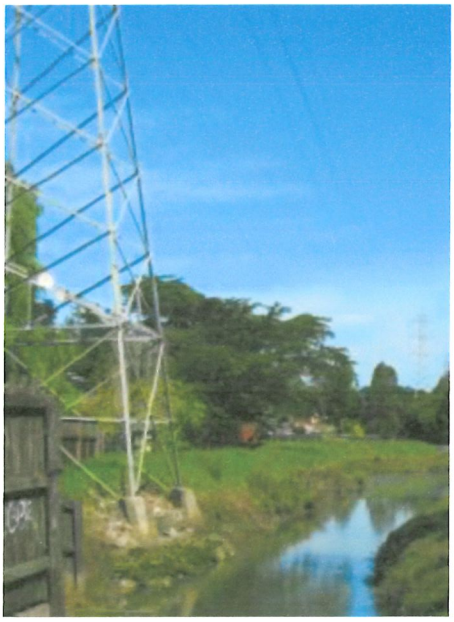
- **Vulnerable Stormwater Assets:** page 325. "Stormwater management is large function of the County of Marin Department of Public Works and a significant amount of land is dedicated to stormwater management for containment and infiltration. In addition, critical infrastructure relays stormwater from pipes, accessible by manholes, tide gates, or pump stations. Some of this infrastructure could weather sea level because it is newer and/or has more advanced technology than older options. Nevertheless, these assets, such as pump stations, could sink in the face of liquefying underlain soils, be overtopped entirely,

L-10

compromised during an extended power outage, and corrode and wear from increased use and saltwater exposure if not adequately elevated. In total, roughly 15 pump stations, more than 81,000 feet of pipes, and several channels, and a few ponds that could expect new or worsening tidal water flooding."

L-11

- **Vulnerable Gas and Electric Assets:** photos from page 328 show transmission towers place on levees in Tamalpais Valley. With sea levels rising, there is a possibility that the towers for these north-south transmission lines will become increasingly at risk. Underground gas lines are also at risk of salt water damage.



Electric transmission tower on Nyhan Creek levee in Tam Valley. Credit: Marin County DPW – page 328

PG&E repair from storm damage in Tamalpais Valley. Credit Marin County DPW- page 328

L-12

Natural Resources, Page 332:

- Marshes and mudflats are far more extensive and offer rich wildlife habitat. Bothin Marsh and Coyote Creek front Almonte and Tamalpais Valley
- These marshes and mud flats provide feeding and breeding grounds for the endangered Ridgway's Rail, salt marsh harvest mouse, and the tidewater goby. Federally listed endangered plants found in the vulnerable areas are white-rayed pentachaeta, Tiburon paint brush, and Tiburon jewel flower.
- Marshes, if flooded more frequently can become flooded out and convert to mudflat habitat. If the marshes are supplied with adequate sediment from upstream or have room to retreat landward they may be able to maintain the higher elevation marsh habitats. This is possible in the northern portion of the study area, where large swaths of open land exist. In the southern portion of the study area, this is less feasible due to development barriers. Marshes here could expect significant habitat shifts as sea level rise.

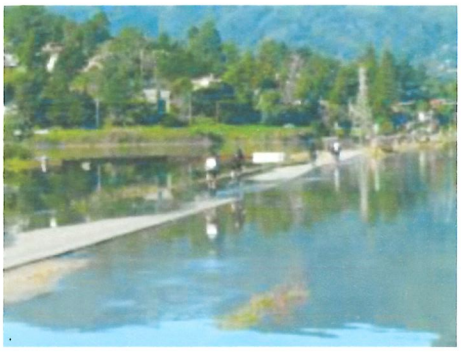
L-13

Recreation, Pages 332 -338:

- "Recreational opportunities in unincorporated Marin are bountiful. The main recreation assets that could be compromised are beaches, on-street bike pathways and sidewalks, dedicated bike and walkways, and boating facilities in the vulnerable area. The Charles McGlashan pathway is vulnerable where it meets Shoreline Highway in Tamalpais Valley is vulnerable in the near-term."

L-13

- Page 333, "The portion of the Mill Valley/Sausalito Pathway fronting Almonte and Tamalpais Valley is vulnerable in the near-term "



Bothin Marsh and the Mill Valley/ Sausalito Pathway Flooded at king tide. Credit: J. Poskazner

- Page 333, "Boating activities in Richardson Bay Marina, Waldo Pint Harbor, Lowrie Yacht Club, Bel Marin Keys boat launches and public dock, private docks and piers could be vulnerable to storm surges and may need to adjust to accommodate rising high tides. In addition, visitor serving hotels and restaurants in Almonte and Tamalpais Valley could also be vulnerable to sea level rise in the near-term."

L-14

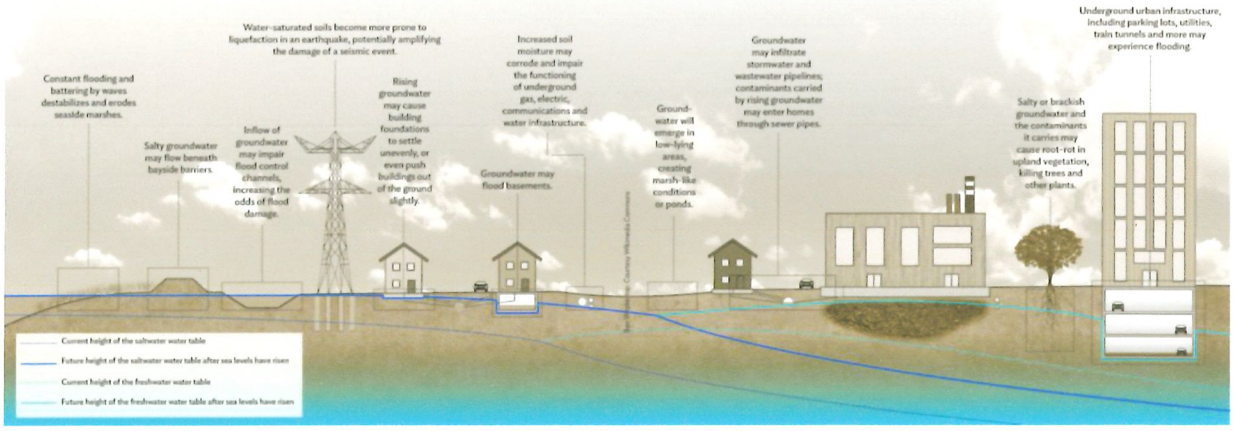
Groundwater and Sea Level Rise: This is not discussed in the BayWave document. It is added this here because questions concerning current depth of the water table, salt water infiltration and possible construction of impermeable barriers arose at the Tamalpais Valley NRG Sea Level Rise Forum on February 23, 2021. There is was no definitive response from the presenters due to lack of data making it unlikely that it was calculated into the Mitigated Negative Declaration.

Bay Nature Magazine, Spring 2019, The Sea Beneath Us, by Grace Mitchell Tada, March 25, 2019 Bay Nature Magazine: The Sea Beneath Us Some sections are quoted below and should be considered by the Board of Supervisors when this comes to Planning Board. It is a piece of the puzzle that might be of interest to BCDC's interest in not contaminating the bay from pollution and toxic materials.

- "In 2012, Kolja Rotzoll, a postdoctoral researcher at the University of Hawaii at Manoa, noticed that inland well water levels fluctuated with the occurrence of large offshore waves. If, for instance, a storm in the Pacific caused large swells that lasted for several days, well water up to three miles inland would also rise. High tides also affected water levels inland, Rotzoll noticed. Hearing about the observation, a colleague of Rotzoll's, marine geologist Chip Fletcher, recognized that if tides and wave energy affected coastal water tables, then as seas rose, the water table would rise inland as well."
- "Rotzoll and Fletcher wrote up their findings, which were published in the journal *Nature Climate Change* that same year. The relationship between sea and groundwater levels they described applied to most low-lying coastal areas, not just Hawaii, and scientists across the country, from Florida to New Hampshire to California, took note. The study implied that many coastal areas were threatened by flooding that planners hadn't even considered. Patrick Barnard, a geologist with the USGS in California, describes the paper as a wake-up call. "We may be missing a huge component of coastal vulnerability to climate change," he remembers thinking."
- Kristina Hill, a professor of urban and environmental design at UC Berkeley, has been researching in Oakland and Marin County, and describes the problem colorfully:
- "Water will leach inside homes, she said, through basement cracks. Toilets may become chronically backed up. Raw sewage may seep through manholes. Brackish water will corrode sewer and water pipes and inundate building foundations. And most hazardous of all, water percolating upward may flow through contaminants buried in the soil, spreading them underground and eventually releasing them into people's homes. The coup de grace will be the earthquakes, which, when they strike, may liquefy the entire toxic mess, pushing it toward the surface."
- "The future Hill described is caused by a phenomenon called groundwater rise. In a nutshell, as a warming climate raises sea levels, the sea won't only move inland, flooding low-lying land near the

L-14

shore; it may also push water up from beneath our feet. That's because for those of us living near the shore, a sea lurks in the ground—a saltwater water table. On top of that salt water floats a layer of lighter fresh water. As the salt water rises with rising seas, Hill and others think, it will push the fresh water upward. In low-lying areas, that water may emerge from the ground."
(Illustration by Nate Kauffman, N8KAUFFMAN.COM)



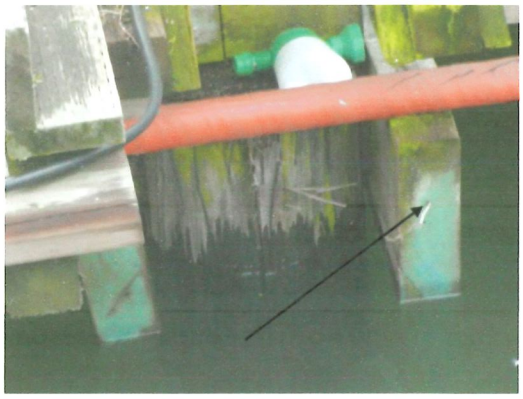
L-15

Table 131. Examples of Unincorporated Marin Vulnerable Assets, pages 341 -343 range from Archaeological sites, Historic Structures, Marinas and Boat Launches, Ferry Terminals, Utilities Roads and Pathways, Beaches and Recreation areas. The listing below contains only those areas contiguous with the Almonte and Tamalpais area that will be impacted in the Near-term and Medium-term as the Sea Level rises as well as one already at risk. It does not include impacts of a 100-foot Storm Surge

Location	Asset	Near-term Scenario 1 [10" SLR]	Medium-term Scenario 3 [20" SLR]	Long-term Scenario 5 [50" SLR]
Almonte	Sea Plane Adventures	9"	2'	5'
Tamalpais	Tam Junction Businesses	0 – 8"	7" – 2'	1'5" - 10'10"
Waldo Point	Businesses		0 – 7te'7"	10'8"
Almonte	Charles McGlashan Parkway		7'6"	10.8"
Tamalpais	Shoreline Highway		5" – 7'5"	2" – 12'5"
Almonte	Shoreline Highway		0 – 3'10"	1'6" – 7'
Almonte	Shoreline Hwy/Hwy 101/ Manzanita		1.3' – 2'	4'3' – 5'
Almonte	Shoreline Development		0 – 2'	1'8" – 5'
Tamalpais	Birdland Neighborhood		0 – 1'10"	2" – 5'9"
Waldo Point	Gate 6 Road		0 – 2'9"	1'10 – 4'9"
Almonte	Caltrans corporate yard		1'	4'
Marin City	S. Hwy 101 Off Ramp			5'4"
Almonte	Tam Junction			1.6 – 2'5"
Almonte	Almonte Blvd			1'10" – 2'5"
Marin City	Hwy 101 North Bound			1'7" – 1'8"
Marin City	Sewage Pipes under Hwy 101	Subsidence, underground asset		

L-15

In Scenarios 1, 3, and 5 measurements are based on MWWH levels only, and therefore do not account for King Tides or Storm Surge from heavy rains, with or without added snow melt, in the Sierra Mountains. As stated earlier, these events, depending on severity, could shift flooding water levels much higher, consistent with the column to the right or far right, not unlike the January 7, 2005 when sea water was less than one foot away from vulnerable utilities under our communal pier.



Photo, M. Allison: January 8, 2005 at 7'1" tide the day after the storm. The Black Arrow points to a nail in the pier's support beam marking the high water level during the January 7th storm.

Keeping the photograph above in mind, the BayWave document was based on 2016 data, and while there has been a brief drop of CO_2 emissions due to the Covid-19 pandemic, little action has been taken that would reverse the upward trend of Global warming

L-16

BayWave Conclusion, page 358: Source: *006_conclusion_biblio_appens_baywave_va_17_06_24.pdf*

- "These assets are vulnerable under the six scenario selected for the BayWAVE process, 10 inches, 20 inches, and 50 inches of sea level rise, and each with a 100-year storm
- A significant degree of uncertainty exists as to how soon these increases in sea level could occur because future carbon emissions, a major variable in modeling, are an unknown.
- However, even if global citizens stabilize carbon emissions, sea level rise would likely continue.
- Moreover, even if the growing global population reduces carbon emissions to levels where atmospheric concentrations decline, the decline will be slow and sea levels would still likely continue to rise for decades, and hundreds of years could pass before the sea level stabilizes or drops.
- If emissions continue to increase, the rate of sea level rise is also likely to increase and these assets could be vulnerable sooner than this assessment presents.
- Because of this uncertainty, this assessment is the first step in an iterative process that will need to be updated as additional science becomes available and adaptation efforts are implemented.
- The sea level rise preparation process will require consistent monitoring and evaluation to improve modeling assumptions and ensure preparation efforts are effective and efficient."

L-17

Again, using the BayWave Conclusion's own words, "Key takeaways from this assessment are:"
BayWave Conclusion, page 345: *006_conclusion_biblio_appens_baywave_va_17_06_24.pdf*

- Everything is connected— impacts to one asset or one community could have regional impacts. Even people who live high and dry could vulnerable to disruptions along Marin's shoreline, especially travel to and from work, school, and health services. Thus, asset managers, property owners, elected and appointed officials, government and consultant professionals will all need to work together to strategize for and implement the best possible outcomes.
- Without safeguards, kinks in the utility and transportation networks could impact hundreds of thousands of residents, employees, and visitors as early as the near-term. Disruptions or damages to these networks could be crippling to modern daily life. Few alternative route options are politically or physically viable.
- Areas seasonally impacted now or during king tides could flood almost daily in the near-term. • Shifts to higher high tides impact public and private ownership under the public trust doctrine requiring hundreds of households to pay fees to the State they do not currently pay.
- Areas on fill and bay mud will face increasing rates of subsidence.

L-17

- The majority of low-lying areas, even those protected by levees, could experience tidal impacts after three feet of sea level rise.
- Some of the most vulnerable places are occupied by those with the least amount of resources and abilities.
- San Rafael and small shoreline unincorporated communities in Southern Marin could be the first to experience significant tidal flooding in the near-term."

L-18

BayWave used 2016 data for the "15-year Expectations" projection on pages 345-346

- "In this near-term timeframe, tidal flooding at 10 inches of sea level rise (MHHW) could reach 5,000 acres with 1,300 parcels and 700 buildings, potentially impacting tens of thousands residents, employees, and visitors."
- "With an additional 100-year storm surge added to sea level rise, the previously impacted acres, parcels, and buildings could face tidal and storm surge flooding." Including "bay front Mill Valley, Marinship in Sausalito, Tamalpais, and Almonte."
  - "Eight miles of road could expect tidal flooding. Many of the flooded intersections already experience storm and king tide flooding. These are: • The Manzanita area, US Highway 101 at Shoreline Highway, • Miller Avenue in Mill Valley, • The Marinship area in Sausalito"
  - "Most concerning, however; is the potential inability of emergency vehicles to access people and places in danger due to the roads flooded in the near-term."

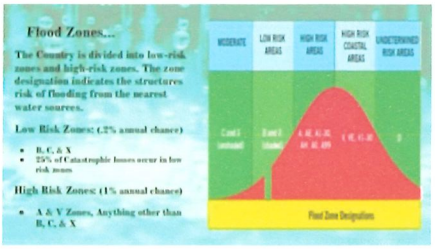
It is now 2021. Almost five years have passed. Few citizens are aware of, let alone have read, the BayWave document. Few pay attention to newspaper articles in the Marin I.J. or S.F. Chronicle concerning Sea Level Rise, unless they have been impacted by traffic long delays due to flooding on Hwy 101 between Manzanita and Marin City, and likely missed the November 21, 2019 Marin County News Release about High Tides Expected this Holiday Season which included this photograph, with caption below, of Pohono St. and the Shoreline Hwy exit ramp from Hwy 101 north bound.

Several locations in Marin, including this parking lot in Sausalito, have a history of flooding when tide levels pass into the mid-six feet range. [Pohono St. entry]

L-19

Greg O'Donnell, a real estate agent, knowingly bought the a empty lot, comprised of fill on historic marshland, A simple MarinMap Site Parcel Report would reveal that parcel 052-371-03 is in Flood Zone AE and requires Flood Insurance. AE is in the High Risk Area Flood Zone Designation.

- When Benjamin Jones, Architect presented the O'Donnell plans to the TDRB on July 3, 2018, he clearly demonstrated his awareness that the proposed project was in a flood zone. Asked about securing the footings to bedrock, he responded that the plan was to build a floating slab. The board member asked how the slab could be secured to mud and fulfill the flood and earthquake code? There was no response. *Source: SCMG Executive Committee member's notes, shared with TDRB.*



L-20

... and finally **Emergency Services**, page 339: "The main cause for concern with respect to emergency services is interrupted or blocked vehicular access. This could lengthen response times and require alternative routes be used or developed. Much like with utilities, the communities rely on emergency service assets headquartered in other communities. Unincorporated Tiburon and Paradise Cay could be burdened by impacts to the Tiburon Fire

L-20

Department and the Corte Madera Fire Department, and the Central Marin Police Department. Santa Venetia, California Park, Bayside Acres, and Country Club could be impacted by interruptions in San Rafael emergency services and access. And finally, Bel Marin Keys, Black Point, Green Point, and North Novato could be vulnerable to interruptions to the Novato Fire Department and access for all other emergency services."

The above quote takes in the entirety of Marin County. Disruption and delays are annoying but delay in emergency services due to Sea Level Rise becomes not just a property issue, but a life saving, gut level, safety issue that will be County wide if we don't start taking serious Climate Change action now.

In Conclusion:

L-21

There are places where development makes sense and places where it doesn't. If we do want to build a climate smart region, it's not building on wetlands for the short term.
It is also not issuing a permit to build an 11,321 square foot, 2-story building with a 3 foot raised foundation on land that was previously a gas station. Especially when a smaller 5,913 square foot building, was denied circa 9-10 years ago. Do we categorically know if the gasoline storage tank was removed? Can we be sure this land isn't toxic?

L-22

Continued development in marshlands and wetlands should be a regional conversation and regional solutions. How can we move away from trying to stop these individual developments, and collaborate on a strategy that really is a regional shoreline protection strategy that will reduce our flood risk overall, by restoring and developing in the right way along the shoreline?

L-23

I'll end by quoting MCL's last two paragraphs about the circa 2011 smaller 5,913 square foot building project that was denied.NL11B_MarApr.indd (marinconservationleague.org)

"Sea level rise cannot be predicted with any precision, but we do know that it will occur not as a gradual phenomenon but rather in episodic events such as extreme high tides and storm surges. Even this project's extraordinary construction techniques (being able to raise the building) will not adequately address this eventuality."

"Although this previously developed site is surrounded by other buildings, and the proposed use is consistent with applicable plans, the proposal raises issues that jurisdictions fronting the Bay are going to have to start addressing in a broader way. The County, working with other Marin jurisdictions on the Bay and working with data that has been compiled by the Bay Conservation and Development Commission, should initiate studies to determine where sea level rise is most likely to affect low-lying areas, and what comprehensive planning policies should address these changes. Properties surrounding Richardson Bay are particularly vulnerable. It is not enough to mitigate the impacts of individual projects; these mitigations could have broader offsite impacts. We have commented on this particular project because we see it as an example of future potential county and community problems."

I ask that you deny any building permit, for this development project at 150 Shoreline Hwy.

Mickey Allison

Mickey Allison
Waldo Point Harbor resident.

L-24

Exhibit 1:

NEWS FROM MARIN CONSERVATION LEAGUE, March-April 2011

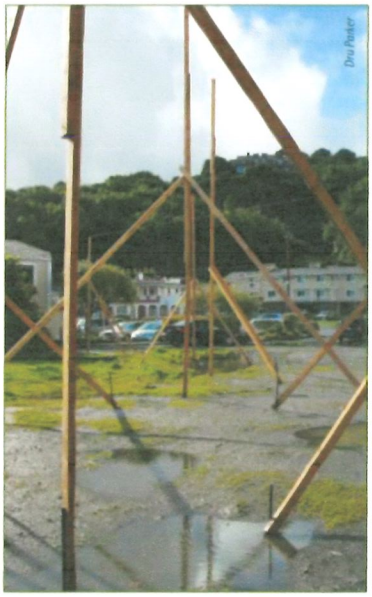
Tam Valley project raises question of sea level rise, Pages 5 and 8.

NL11B_MarApr.indd (marinconservationleague.org)

In any other location, the proposal by Southern Oil Company to construct a 5,913 square foot building grocery store and delicatessen with three second-floor condominium residential units (one of them affordable) on a roughly half-acre disturbed site would be considered totally appropriate. The level site north of Shoreline Highway in the Manzanita Area of the unincorporated community of Tamalpais Valley was originally developed as a gasoline service station, which was removed in 1994. A shared driveway from Shoreline Highway provides access to other commercial uses, including Frantoio Ristorante, a hotel and a two-story complex of small offices.

This particular location raises some issues that are indicative of the need for policies that the County and Bay shoreline communities of Marin will have to consider in coming years— development in areas subject to sea level rise. The 25,557 square foot property is on filled marshland of Richardson Bay, approximately 400 feet south of the tidal Coyote Creek and 500 feet southwest of the Bay shoreline. During a recent period of high tides, the site was flooded, a chronic condition in the area. Marin Conservation League is concerned that the project is proposed in an area of existing flood hazard, which will be exacerbated by sea level rise, and that existing policies do not fully address this future condition.

The Negative Declaration for the project states the following: "The design of the project would provide a finished floor elevation above the top of the slab at 13.08 feet NAVD (roughly equivalent to Mean Sea Level) where the ground elevation will be leveled to 9.7 feet NAVD. The height of the finished floor would account for settlement of the structure within 100 years and would maintain compliance with the 100-year base flood elevation Sea level rise *will likely change the base flood elevation over this time frame, and it is recommended that the building design include adjustable connections to the foundation to allow for raising the structure above the base flood elevation after long-term settlement and sea level rise. No significant effects.*" (Emphasis added.)



Story poles mark the 150 Shoreline site

Sea level rise cannot be predicted with any precision, but we do know that it will occur not as a gradual phenomenon but rather in episodic events such as extreme high tides and storm surges. Even this project's extraordinary construction techniques (being able to raise the building) will not adequately address this eventuality.

Although this previously developed site is surrounded by other buildings, and the proposed use is consistent with applicable plans, the proposal raises issues that jurisdictions fronting the Bay are going to have to start addressing in a broader way. The County, working with other Marin jurisdictions on the Bay and working with data that has been compiled by the Bay Conservation and Development Commission, should initiate studies to determine where sea level rise is most likely to affect low-lying areas, and what comprehensive planning policies should address these changes. Properties surrounding Richardson Bay are particularly vulnerable. It is not enough to mitigate the impacts of individual projects; these mitigations could have broader offsite impacts. We have commented on this particular project because we see it as an example of future potential county and community problems.

Letter L

Mickey Allison

L-1 The comment advocating denial of the proposed project is noted and will be considered by the County's decision makers prior to making a decision on whether or not to approve the proposed project. It does not address the adequacy of the IS/ND.

L-2 The comment summarizes previous development on the site and a prior proposal to redevelop the site with a mixed-use project that was never implemented. It does not address the adequacy of the IS/ND, and no further response is necessary.

L-3 It is acknowledged, as asserted in the comment, that the County has become more proactive in addressing the threats of climate change and sea level rise, and it will continue to work to protect County resources and residents from these threats. Regarding the gasoline storage tank, as discussed in Section 9-b of the IS/ND, the former gasoline storage tank was removed in 1993, and contaminated groundwater was extracted and disposed of in 1995. The San Francisco Bay Regional Water Quality Control Board (RWQCB) oversaw this remediation and assigned a "Case Closed" status to the cleanup on August 22, 1995.

Although the site had already received this regulatory closure status from the RWQCB, a Phase II Environmental Site Assessment (ESA) was performed at the site in April 2015 that included collection of soil samples from four test pits excavated at locations distributed across the project site. Eight soil samples were collected at depths of 3 and 5 feet below the ground surface (bgs). Groundwater samples were not collected as groundwater was not present at depths reachable with the backhoe that excavated the test pits. The soil samples were analyzed for total petroleum hydrocarbons (TPH) as diesel, TPH as gasoline, and volatile organic carbons (VOCs) by laboratory methods recommended by the U.S. Environmental Protection Agency (EPA).

Only one of the collected soil samples revealed any contamination, which was at low concentrations. This contamination included 130 milligrams per kilogram (mg/kg) of gasoline-range organics, 69 mg/kg of diesel-range organics, 2.8 mg/kg of ethylbenzene, 7.8 mg/kg of total xylenes, and 2.6 mg/kg of napthylene. Due to the limited extent and low overall concentrations detected, the Phase II ESA concluded that it is highly unlikely that significant risks associated with petroleum impacts remain. Due to the results of the soil sampling, groundwater sampling was determined to not be warranted, reinforced by the RWQCB's previous signoff on

the remediation conducted in 1995. Because the site use since 1996 has not changed, it was also presumed that impacts to groundwater have not increased, but rather have continued to decrease due to natural attenuation. Based on these results, the Phase II ESA concluded that no further sampling or investigation was warranted. Consequently, there is no evidence that development of the proposed project would cause the release of hazardous materials into Richardson Bay.

L-4 The geotechnical soils report for the proposed project indicates that settlement due to existing fill of 15 feet over highly compressible Bay Mud may be about 12 inches over the next 100 years.[14] Settlement due to foundational loading is not expected to exceed 3 inches, which will be offset by provisions for re-leveling adjustments as recommended by the geotechnical report. The building would still exceed the currently-effective FEMA flood elevation by 1.25 feet under this scenario, and thus meets the appropriate Marin County Development Code requirements as detailed in Response to Comment F-2. In addition, the constructed footprint of the proposed project would be small relative to existing conditions and would not substantially impact flood levels at adjacent or nearby infrastructure, including Shoreline Highway, US Highway 101, or other roads or local communities mentioned by the commenter, nor would it exacerbate subsidence or coastal flooding.

The Stormwater Control Plan for the project includes an appropriately-sized bioretention basin where stormwater runoff will be directed. Basin sizing and materials will comply with the requirements set forth in the *Post Construction Manual* published by the Bay Area Stormwater Management Agencies Association (BASMAA). The Hydrology Study prepared for the project states that the post-project peak 100-year stormwater discharge will be reduced with implementation of the bioretention facility (2.38 cfs) relative to existing conditions (2.45 cfs), which would result in no increase in flood levels or discharge from the site.[15]

L-5 Construction of the proposed redevelopment project would not significantly induce or exacerbate coastal flooding related to sea-level rise, storm surges, or other factors in areas adjacent to or in the area of the project, including those referenced by the commenter. Vulnerabilities to residential and commercial buildings will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. Adaptations to sea-level rise vulnerabilities are particularly important at Tam Junction, Almonte, and Tamalpais Valley, where many residential and commercial buildings are at elevations of approximately 7 to 9 feet msl. In comparison, the proposed project plans to build at a flood-adapted 12.5 feet in elevation. The proposed project would not substantially impact flood levels

[14] John C. Hom & Associates, Inc., *Soil Engineering Report Update, Proposed Office Building, 150 Shoreline Highway, Mill Valley, California*, 2019.

[15] CSW/Stuber-Stroeh Engineering Group, Inc., *Hydrology Study for 150 Shoreline Hwy, 150 Shoreline Highway, Mill Valley, California 94941,* May 6, 2019.

because its footprint is small relative to adjacent and nearby infrastructure, and would not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-6 Marin County Development Code Section 23.09.034(c)(1), Elevation and Floodproofing, states that "new construction… shall have the lowest floor… elevated to or above the base flood elevation." The proposed building would be constructed on a raised 3-foot-high concrete plinth base that would protect the building from flooding and storm surges. The design datum is 9.5 feet and the elevation of the first floor plan in the proposed building would be 12.5 feet. Project plans indicate that the lowest floor elevation would be 2.5 feet above the currently-effective FEMA FIRM 100-year flood elevation of 10 feet. Compliance with the County's elevation and floodproofing requirements would ensure that the building would not experience significant damage or destruction in the event of local flooding.

Construction of the proposed redevelopment project would not significantly induce or exacerbate coastal flooding related to sea-level rise, storm surges, or other factors in areas adjacent to or in the area of the project, including those referenced by the commenter. Vulnerabilities to existing residential and commercial buildings will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. It is beyond the scope of the environmental review for a small infill project to address and solve the larger regional threats from flooding and sea-level rise, but the proposed project would not substantially contribute to flood levels because its footprint is small relative to adjacent and nearby infrastructure. The project would not affect the rate at which sea-level rise will impact the region.

Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-7 Construction of the proposed redevelopment project would not significantly induce or exacerbate the flooding of vehicles as a result of sea-level rise, storm surges, or other factors in areas adjacent to or near the project, including those referenced by the commenter. The commenter correctly states that the proposed project building would be designed to remain above flood levels. Flooding of vehicles for residents of the new building could occur but would have less of an environmental impact than flooding of construction equipment that currently occupies the site.

Vulnerabilities to vehicles will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions.

L-8 Construction of the proposed redevelopment project would not significantly induce or exacerbate coastal flooding related to sea-level rise, storm surges or other factors in areas within the vicinity of the project, including those referenced by the commenter. Vulnerabilities to transportation corridors, including interchanges, roads, and corridors used for transit and by bicyclists and pedestrians, will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project would not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it would not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-9 Impacts of flooding and other hydrologic conditions to local utilities infrastructure is an existing condition that would not be exacerbated by the proposed project. Vulnerabilities to utilities, including pipes, pump stations, and sanitary services, will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project would not substantially contribute to flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it would not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-10 The proposed project would not exacerbate the existing or anticipated regional impacts to stormwater infrastructure described in comment L-10. The project's Stormwater Control Plan includes an appropriately sized bioretention basin to which rooftop stormwater runoff would be directed and complies with the requirements set forth in the BASMAA Post-Construction Manual referenced in Response to Comment L-4. The Hydrology Study for the project states that there will be a reduction in the post-project peak 100-year stormwater discharge with implementation of the proposed bioretention facility (2.38 cfs) in comparison to existing conditions (2.45 cfs), which would also result in no increase in flood levels. The proposed first floor elevations, the hydrology study's 100-year storm discharge calculations and stormwater control plan's bioretention basin calculations comply with Marin County Development Code, FEMA CFR 60.3 (d)(3), and with the BASMAA Post-Construction Manual.

L-11 The proposed project would not exacerbate the existing or anticipated regional impacts to transmission lines described in the comment. Regional adaptation responses will be required to address vulnerabilities to regional gas and electric assets. The proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it will not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-12 The proposed project would not exacerbate the existing or anticipated regional impacts to marshes near the project site. The project would not affect the supply of sediment to the marshes. The commenter suggests that there are "large swaths of open land" at the project site that could provide a buffer for migration of marsh habitat. This statement is not correct; the project site is only 0.59 acres, is already a developed parcel, and is surrounded on all sides by existing development. Vulnerabilities to natural resources, including marshes and mudflats, will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it will not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-13 The proposed project would not exacerbate the existing or anticipated regional impacts to recreation described in comment L-13. Vulnerabilities to regional recreational opportunities such as the Bay Trail will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it will not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-14 The proposed building will be constructed on a raised 3-foot-high concrete plinth base that will protect the building from flooding, storm surges, and groundwater seepage. The design datum is 9.5 feet and the proposed first floor plan is 12.5 feet.

Project plans indicate that the lowest floor elevation will be 2.5 feet above the currently-effective FEMA FIRM 100-year flood elevation of 10 feet.

L-15 The proposed project would not exacerbate the existing or anticipated regional impacts to Marin vulnerable assets described in the comment. No additional analysis is warranted or required. Vulnerabilities to a range of regional assets will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project would not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it would not affect the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-16 As discussed in Section 8-a of the IS/ND, the project would not generate significant amounts of carbon dioxide or other greenhouse gases. Regarding the impacts of sea level rise, see the previous response.

L-17 The proposed project would not exacerbate the existing or anticipated regional impacts related to sea-level rise described in the comment. No additional analysis is warranted or required. Vulnerabilities to a range of regional assets will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it will not alter the rate at which sea-level rise will impact the region. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-18 The proposed project would not exacerbate the existing or anticipated regional impacts related to sea-level rise described in the comment. The call for attention to the BayWave document summarized by the commenter is acknowledged, but it is not the responsibility of the proposed project to broadly disseminate this information for regional awareness purposes.

L-19 The IS/ND acknowledges that project parcel is located in the Special Flood Hazard Area (SFHA) Zone AE per the FEMA FIRM panel number 06041C0469F, effective date March 16, 2018. The FEMA FIRM indicates a base flood elevation (also defined as a 100-year storm event) of 10 feet using the elevation datum NAVD 1988.

As discussed in Section 7-a(ii) of the IS/ND, the Project is required to conform to the current California Building Standards Code, and the Marin County Building and

Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report, which includes structural design intended to withstand the maximum credible earthquake and associated shaking.

The proposed building will be constructed on a raised 3-foot-high concrete plinth base that will protect the building from flooding during the 100-year storm event. The design datum is 9.5 feet and the proposed first floor plan is 12.5 feet. Marin County Development Code 23.09.034(c)(1), Elevation and Floodproofing, states that "new construction… shall have the lowest floor… elevated to or above the base flood elevation." Project plans indicate that the lowest floor elevation will be 2.5 feet above the FEMA FIRM 100-year flood elevation of 10 feet.

The plans to build the project on floating slabs-on-grade on top of engineered fill were based on geotechnical recommendations prepared for the site. There is no requirement to secure footings to bedrock if adequate other means of protection from earthquake shaking are available.

L-20 The proposed project would not exacerbate the existing or anticipated regional impacts to emergency services as related to sea-level rise described in the comment. Vulnerabilities to response times for emergency vehicles will need to be addressed by regional adaptation responses, implemented at the County level or by other local jurisdictions. The proposed project will not substantially impact flood levels because its footprint is small relative to adjacent and nearby infrastructure, and it will not alter the rate at which sea-level rise will impact the region. Thus, the proposed project will not substantially add to the impact on emergency services response times during flooded conditions. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

L-21 The project would not be developed on wetlands, rather it is an in-fill project located on a parcel that has already been altered and filled for prior uses at the site. In addition, it is surrounded by existing development. The project is consistent with the County's land use and zoning district designations of the property. Regarding the former gasoline storage tank and potential contamination, see Response to Comment L-3.

L-22 Again, the project would not be developed on wetlands, but on a previously developed site surrounded by other development. As stated in previous responses, the project will not exacerbate existing or anticipated flood risks in the area.

L-23 BayWave documentation, the interactive Adapting to Rising Tides website, and Richardson Bay Resilience storymap highlight the work that Marin County and Bay

Area Counties are doing to understand and prepare for the possible impacts of sea-level rise. Regional adaptation responses have begun and will continue to be required to address the vulnerabilities indicated in the above sea-level rise documentation, implemented by the County or by other local jurisdictions. The project, as proposed, is not likely to inhibit implementation of regional adaptation strategies.

In the storymap, adaptation approaches include raised structures, which is the adaptation approach the project proposes. The proposed project has addressed flooding and sea-level rise concerns with plans for a 3-foot raised building that will elevate the structure above flood levels and accommodate possible near-term sea-level rise conditions, and that includes provisions for re-leveling adjustments. The project will also retain or create pervious surfaces where possible, including pervious pavement parking. Stormwater runoff will be directed into a bioretention basin that will incrementally reduce stormwater discharge. Furthermore, the project has a small footprint relative to existing conditions that will not substantially impact flood levels at adjacent or nearby infrastructure. Given the above plans, the project would not add to the impact of flooding or sea-level rise of adjacent or nearby infrastructure. Also see Response to Comment F-2 for additional discussion on the *Ballona Wetlands* and *CBIA v. BAAQMD* court rulings finding that CEQA does not apply to effects of the environment on a project unless a project would exacerbate an existing environmental hazard, which is not the case with the proposed project.

Lastly, the comment was related to a previous project; there are no indications that the reason the prior project was denied was directly related to this comment. The opposition to approval of the project is noted and will be considered by the County's decision makers prior to making a determination on whether or not to approve the proposed project.

L-24 The comment consists of an extract from a 2011 Marin Conservation League newsletter discussing a previous proposal for developing the project site that was never approved or implemented. The newsletter excerpt does not pertain to the proposed project or address inadequacies of the IS/ND for the current project, and no response is necessary.