

May 17, 2013

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By e-mail: envplanning@marincounty.org

Subject: 2012 Draft Marin County Housing Element – Comments on Final SEIR

Dear Ms. Warner:

Marin Conservation League submits these comments on the Final SEIR for the 2012 Draft Marin County Housing Element. MCL supports the need for affordable housing in Marin, but we continue to have concerns about the Final SEIR. Our comments focus on the Final SEIR responses to MCL's comments on the Draft document. We appreciate that the FSEIR provides a more in-depth analysis of issues associated with sea-level rise, and has modified mitigation measures to reflect current data and programs. We believe that areas known to be vulnerable to flooding and projected sea level rise should not be considered appropriate sites for affordable housing.

1. Functions of the SEIR as a Program Document.

We noted in our comments that the Housing Element SEIR essentially supplements the Countywide Plan EIR by identifying any new or substantially more significant impacts due to implementing the Draft Housing Element, compared to impacts identified in the Countywide Plan (CWP) EIR. Too much of the analysis is spent on comparing the two documents rather than on shaping the Draft SEIR to be a useful first-order program EIR. The result will be that *two* program-level EIRs will have to be consulted as "First Tier" documents in future project-level environmental review. This makes for a cumbersome process!

The FSEIR responds to MCL's comment by citing CEQA Guidelines – *viz.*, that the FSEIR ". . . need only contain information necessary to make the 2007 CWP EIR adequate to address implementation of the policies and programs of the new housing element." While this may be a legally adequate response, we continue to believe that the CEQA process should facilitate rather than present obstacles to ongoing environmental review. The conservative approach taken by the consultant does nothing to facilitate future review.

We also noted that the Housing Element FSEIR will become out of date, as has the CWP EIR. The end-date for actual project development might occur years if not decades after the end of the 2014-22 RHNA cycle. At that time the SEIR would no longer suffice as a current program EIR for purposes of "tiering" subsequent environmental reviews of individual applications.

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The FSEIR responds that the SEIR need not be updated to maintain compliance with CEQA, but rather the individual review of each housing site will require using up-to-date data that is pertinent to the subject of review. Although this approach would ensure that current data, such as for sea level rise and air quality, for example, will be referenced in site review, it could overlook current *cumulative* impacts that are a primary purpose of the SEIR. There should be some assurance that both cumulative as well as site-specific information will be considered where circumstances or data have changed over time.

2. Applicability of CWP Programs as Mitigation.

MCL noted many policies and programs in the CWP that were cited as mitigation measures in the Draft SEIR have not been implemented, and, therefore, it is not possible to insure that programs referenced as mitigation for significant impacts will be, implemented in the future.

The FSEIR response to our comment simply notes that CDA staff will continue working with the Board of supervisors to implement programs in the CWP. In our view, this means that future site-specific reviews will not be able to rely on the two program EIRs for applicability of mitigation measures based on the CWP policies and programs, but will have to review the program documents carefully to determine whether referenced programs have been implemented.

3. Adequate Site Descriptions.

MCL requested the Final SEIR contain an “environmental and land use profile” for each site, which compiles basic information about the site from each topic covered in the Draft SEIR. As the SEIR stands, the reader must consult numerous sections and tables in the document to assemble a useful description of each site. This is another example of how this document will complicate rather than facilitate future environmental reviews.

The FSEIR response is simply that the preparer of the SEIR is not responsible for reorganizing information in the document, and that the information is adequate for its intended purpose. This is not a helpful response.

4. Streamlining Environmental Review.

The 2012 Draft Housing Element goals and programs contain a number of references to streamlining and expediting review of development proposals. Although this may be useful in helping the County to meet affordable housing needs, the repeated theme of streamlining and other means of expediting permit review raises a number of concerns about future public process.

The response in the FSEIR is: “While this SEIR provides in depth program level review of the proposed housing sites that may be used to help streamline future tiered environmental review, additional site specific review is anticipated for specific development projects when they are proposed.” We reiterate that each site must be given adequate and transparent environmental review.

In conclusion, we repeat our basic concern that individual housing sites will not receive adequate environmental review or opportunities for public engagement in future years or address conditions or public needs as they change over time. While we acknowledge the need for affordable housing and greater housing choices at all income levels in Marin, it must not occur at the expense of environmental quality or loss of transparency and public involvement in governmental decisions.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Schnapf', written over a light gray rectangular background.

David Schnapf

President

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