



Shasta Birding Society

A Wintu Country Chapter of the National Audubon Society

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February 15, 2024

Chair Aaron Hatch and Planning Commission, City of Redding

Subject: Comments on the Redding General Plan 2045 Final EIR and
Comments on the Revised General Plan 2045 Text and Figures

Dear Chair Hatch and Commissioners:

Shasta Birding Society has reviewed the Final EIR (FEIR) for the proposed General Plan 2045 Update (Plan). We continue to dispute certain representations made by the City in the DEIR, as expressed in the City's Responses to Comments within the FEIR. We also continue to find that revisions to the proposed General Plan goals and policies within the Natural Resources Element and the Parks, Trails and Recreation Element are necessary, and urge their correction. We further make note of several necessary factual corrections and suggestions for text revisions related to preservation of bird populations and habitat including riparian and tree resources, and proper references to special status species, including but not limited to threatened and endangered species, rare plants, species of concern, and sensitive natural communities.

Sufficiency of the FEIR

In our comments on the DEIR we noted that Impacts BIO1, 2, 3 and 4 conclude there will be no significant impact to biological resources resulting from General Plan implementation primarily in reliance of the implementation of certain Natural Resources and Parks, Trails and Recreation Element policies. As we noted in our letter to the Commission dated March 27, 2023, qualifying language included in most of these policies, such as "strive to", "work to", "encourage", "consider", "as appropriate", etc., make a result that preserves or protects biological resources uncertain. The DEIR conclusion that no impact will result is an assumption that can't be reliably made unless such policies are implemented with firmer obligatory language. We also noted that future CEQA review for development projects will be more problematic and more difficult to devise adequate mitigation, because future reliance on a project's consistency with GP policies will not necessarily assure outcomes that preserve and protect biological resources.

In response to these concerns the City has pointed out that throughout the GP text, over 100 policies have been revised to strengthen the previously "permissive" language. (See FEIR Response to Comments A5-3) We applaud the City's effort to address our concern (and the concern of several other commenters) regarding the "strength of intent" in the policy language. However, a brief accounting of the changes to policies that relate to biological resource protection or preservation, as shown in the above referenced elements, shows that of 20 policies that relate to biological resources which use permissive, non-obligatory language, only 8

have been altered, and only 5 of those 8 have been significantly improved, leaving 15 policies that relate to biological resources either unrevised or revised but with no significant improvement that would allow a City decision maker to rely on the policy to preserve or protect the biological resource. For example, Policy NR4B – “Work to preserve and enhance the fisheries of the Sacramento River and those tributary streams and stream segments depicted in Figure 1 and/or other streams or water bodies...” has been revised to “Prioritize the preservation and enhancement of...” The improvement in obligating the City to preserve and enhance fisheries of the Sacramento River is marginal or absent. We suggest Policy NR4B be revised to “Ensure the preservation and enhancement of the fisheries of the Sacramento River...” This would more reliably assure that Plan guidance would in fact protect the resource.

These flawed policies continue to use language that too likely will allow future City decision makers, who will be tasked with reviewing whether a project is consistent with the Plan, to lightly conclude that the City’s obligation to preserve and protect wildlife and its habitat has been met. For the City to credibly assert (as represented in the DEIR and FEIR) that the policies serve as mitigation for potential impacts on biological resources **at the current programmatic level of review**, the Policies must be strengthened as we have asserted in previous comments and here. Absent such firmer language, the FEIR’s conclusion that the policy provides reliable mitigation is flimsy.

The City’s response also asserts that future CEQA review on individual projects will provide the opportunity to impose project-specific mitigation. Although this is of course true, CEQA requires a good faith attempt **during the current programmatic review stage** to assure policies of the Plan will be effective in preserving and protecting resources. The City’s response clearly attempts to defer mitigation to future projects which has been repeatedly rejected for many years by courts interpreting CEQA’s requirements.

Impact BIO6 concludes that cumulative impacts to biological resources will be significant and will remain significant despite available mitigation. We have pointed out that strengthening the language of the above referenced policies would reduce impacts, even though in the case of Impact BIO6 they may remain significant. The City’s response (see Response A5-4 and A5-5) deflects this proposal, asserting that no further mitigation is required because the potential impact will remain significant regardless of further measures, and any further change to the Policies is not within the scope of the CEQA analysis. This is not in keeping with the requirements of CEQA and its Guidelines. CEQA requires that the lead agency must complete a good faith effort to identify measures reasonably expected to reduce impacts, including changes to or alternatives to the proposed project. (CEQA Guidelines sections 15041(a), 15126.4(a), 15126.6(b) and (c)) Specifically, as noted above, policies of the Natural Resources and Parks, Trails and Recreation elements must be strengthened to add additional certainty to an outcome favoring preservation or protection of biological resources, including reducing Impact BIO6.

The City’s response to our comments on Impact BIO6 also deflects our assertions by concluding that future project-specific environmental review will analyze effects on biological resources as required by CEQA. This does not, however, release the City from providing a good faith programmatic level examination of feasible mitigation or project alternatives that reduce impacts. We continue to assert that Natural Resources Element and Parks, Trails and Recreation Element policies can be improved, and impacts to biological resources at the present programmatic analysis level can be reduced, by replacing the all too prevalent “should” or

“consider requiring” with “shall” or simply “require”. By refusing to adopt more directive language or discuss in its response how that may assist in the avoidance of impacts, the City compromises the required and desired resource protections available to it, which additionally constitutes an abuse of discretion by the City.

Figure NR-1 includes a note that allows a reduction to the recommended Sacramento River development buffers for the Sacramento River. The recommended buffers for the River are a minimum 75 foot development setback from riparian dripline or 150 feet from bank, whichever is greater. The Figure further describes allowable reductions for “...Water orientated (sic) commercial projects in the Cypress Avenue, Park Marina, and Convention Center areas which may have reduced setbacks.” The FEIR does not discuss the potential impact of this buffer reduction on Sacramento River biological resources, including riparian resources, special status species and their habitat, nesting birds and listed fish (and perhaps other impacts). The FEIR’s conclusion in the discussion of Impacts BIO1, 2, 3 and 4 that no impacts will result from implementation of the Plan is clearly not supported by any evidence in the record that impacts will not result from a buffer that is not large enough to protect sensitive habitats or resources or special status species, nor is any new evidence offered that reducing such buffers will not have even more severe, significant impacts.

The discussion in Table 3.5-1 regarding the status of recently circulated Plan figures (page 188 of the FEIR) states: “The DEIR did not originally use this figure. The revised figure does not present new information that was not already discussed in the DEIR.” This is clearly not true, as there is no analysis or discussion of buffers as mitigation for impacts in the DEIR, nor analysis of a buffer that may be too small to protect the resources of the stream or river segment in question, whether reductions are allowed for special cases and areas or not. Nor is any mechanism proposed or discussed that would allow a buffer to be adjusted based on local conditions or resource constraints, such as presence of special status species. In fact, the entire buffer scheme proposed in Figure NR-1 is arbitrary in nature, and no evidence is offered that any proposed buffers are adequate to protect resources, whether already codified by the City or not. Whether or not the current General Plan and City Code provides for these buffers or their reductions in special cases does not justify extending their applicability for another 20+ years without adequate CEQA analysis. (Such additional analysis could include as only one example an accounting of their success over time in adequately preserving riparian and other sensitive habitats citywide during their use since their adoption, or other period that provides useful information.)

Similar to the deferral of mitigation in the cases explained above, CEQA simply doesn’t allow the City to defer consideration of impacts that could result from reducing buffers for special uses. The City properly maintains that the Plan’s CEQA analysis is programmatic in nature at this stage and not project specific. However, the potential impacts of these buffer reductions for focused areas and specific project types are not appropriate and are in no way supported by the CEQA analysis provided. Nor does the Plan or Figure NR-1 outline how a reduced buffer can be justified except to briefly assert it will be mitigated “when allowed”. Deferral of impact analysis with such vague assurances is not permitted by CEQA.

Revised General Plan 2045 Text and Figures

We have reviewed the revised draft of the Plan and its Figures. Our comments include the following:

1. The term “special status species” appears several times in the Plan with potentially inconsistent and unclear meanings. The definition of “special status species” in the Biological Resources section of the Natural Resources Element at page 7 is not fully consistent with the definition of “rare species” used for CEQA compliance at CEQA Guidelines Section 15380. The inconsistency will lead to confusion for Plan interpretation as well as future CEQA compliance. To be consistent with its application for CEQA compliance, the Plan’s “special status species” definition should include all rare species identified by federal, State and local designations which must be considered during CEQA compliance review. In addition to endangered or threatened species listed under the federal Endangered Species Act (FESA) and California Endangered Species Act (CESA), the term should include federal or California Species of Special Concern, nesting birds pursuant to California Fish and Game Code (FGC) Section 3503, raptors per FGC 3503.5, fully protected species under FGC, bald and golden eagles per the Federal Bald and Golden Eagle Protection Act, as well as rare plants designated by Section 1900 of the FGC or by the California Native Plant Society.

Natural Resources Element Policy NR5-B and elsewhere in the Plan the narrower terms “threatened or endangered” are used instead, which commonly refers only to a designation by FESA or CESA. The Plan should refer to rare species only with the term “special status species” to avoid confusion, unless a narrower sense is required in a particular case. In this case, “threatened or endangered” excludes rare species, candidate species, and many rare plants that lack threatened or endangered status per FESA or CESA, but nonetheless are subject to CEQA impact analysis.

Birds protected under the Migratory Bird Treaty Act (MBTA) are not included in the Plan’s special status species definition. Take of MBTA designated birds, which includes disturbance of nests or destruction of eggs or nestlings, is considered a significant impact pursuant to CEQA. To facilitate consistency between the Plan and future City CEQA compliance we recommend that the Plan’s special status species definition be revised to include birds protected by the MBTA.

2. As noted above under the FEIR discussion, Figure NR-1 includes a note that allows a reduction to the recommended development buffers for the Sacramento River within the Riverfront Specific Plan update area (Cypress Avenue, Park Marina, and Convention Center areas) for “water orientated (sic) commercial projects”. There is no discussion in the Plan that provides an explanation for why this reduction should be included. In fact, such a reduction may conflict with the Riverfront Specific Plan update process currently underway, by facilitating a use which has not been studied or vetted during that public review process, let alone proposed by any draft update to the Riverfront Specific Plan yet issued. Additionally, buffers between development and riparian resources within the project limits of the Riverfront Specific Plan update must be based on the best available, science based, biological analysis, not the needs of commercial uses.
3. Parks, Trails and Recreation Element Policy R2-G states: “On a project-by-project basis, strive to protect, enhance, and restore habitat for special-status plants and animal species.” To strengthen this policy, the policy must be revised as follows: “Protect, enhance, and restore habitat for special-status plant and animal species.” The preamble

“on a project-by-project basis” implies that it will not be implemented unless or until a City development project is constructed. In fact, all activities of City departments that implement and operate City park, trail and recreation facilities, structures or amenities including short term events, project planning activities, park and trail construction and maintenance of existing facilities should be guided by the General Plan. Such guidance is, after all, the point of a General Plan.

Thank you for the opportunity to comment on the FEIR and Draft General Plan 2045.

Sincerely,

Bruce Webb, Conservation Chair

Rebeca Ladrón DeGuevara, President

cc. Redding City Council Members
Jeremy Pagan, Development Services Director
Vishnu Shankar Krishnan, Senior Planner
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Winter King, Shute, Mihaly, Weinberger LLC
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