
San Francisco Bay Regional Water Quality Control Board

Sent via electronic mail: no hard copy to follow

January 30, 2020

Ms. Olivia Ervin
City of Petaluma, Planning Division
11 English Street
Petaluma, CA 94952
Email: oervin@cityofpetaluma.org

Subject: Comments on the Final Environmental Impact Report for Sid Commons Apartment Project, Sonoma County

Dear Ms. Ervin:

San Francisco Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to provide comments on the Final Environmental Impact Report (FEIR) prepared by the City of Petaluma Planning Division (the City) for the Sid Commons Apartment Project (Project) pursuant to the California Environmental Quality Act (CEQA). The City posted the FEIR for public review on December 9, 2019. Based on our review, we offer the following comments.

- 1. Potential Impacts to Federal and State Jurisdictional Wetlands and Other Waters.** The FEIR acknowledges that a Clean Water Act (CWA) Section 401 water quality certification (401 WQC) from the Water Board and a CWA Section 404 Permit from the U.S. Army Corps of Engineers (Corps) will be necessary as the Project proposes to impact waters of the U.S. To ensure the impacts to waters of the US and waters of the State are correctly identified and analyzed, the appropriate agencies (Water Board and Corps) should verify the wetland and other jurisdictional water features at the study area. The FEIR considered only waters of the U.S. under Corps jurisdiction. However, waters of the State under Water Board jurisdiction include the channel above the ordinary high water mark (OHWM) and extends up to the riparian corridor.

The Water Board requires projects to avoid and minimize impacts to the maximum extent practicable before considering compensatory mitigation. The proposed Project will be required to develop a thorough and complete Alternatives Analysis (see #2 below) and Technical Design Basis to demonstrate that impacts have been avoided and minimized to the maximum extent practicable. The Technical Design Basis should include site-specific and reach-wide evaluations of (1) the Petaluma River system's hydrologic, hydraulic, and geomorphic conditions and processes; (2)

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

the ecological function of the River and its riparian corridor; and (3) existing habitat value and flood protection opportunities. This technical basis should inform the development of project alternatives and clearly demonstrate how the chosen design avoids and minimizes impacts to the maximum extent practicable. The technical basis should consider not only one-time construction impacts, but also long-term impacts of project activities.

For instance, the Project involves channel widening, a detention basin, and grade stabilization measures (riprap). These actions have the potential to impact sediment transport, erosion, and deposition characteristics and could potentially degrade habitat within this reach and upstream/downstream. Widened channels can promote increased sediment fall out and aggregation, resulting in more frequent sediment removal maintenance impacts to the reach. Hardening of the banks or outfalls with riprap grade control can often initiate erosional issues just downstream or upstream. When evaluating whether impacts have been avoided and minimized, long-term operational and maintenance impacts must also be considered.

The Water Board stormwater requirements include avoiding placing stormwater facilities (bioretention, LID, etc) within wetlands or other waters of the State. To meet State water quality standards, please ensure this avoidance measure is incorporated in the designs as they are developed.

- 2. Alternatives.** For the Water Board to permit the proposed Project pursuant to CWA, Section 401, we require a project proponent to conduct an alternatives analysis consistent with the U.S. Environmental Protection Agency's 404(b)(1) Guidelines (Guidelines). The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) incorporates the 404(b)(1) Guidelines by reference to determine the circumstances under which filling of wetlands, streams or other waters of the U.S. and/or the State may be permitted. In accordance with the Basin Plan, filling, dredging, excavating and discharging into a wetland or water of the state is prohibited unless the project meets the least environmentally damaging practicable alternative (LEDPA) standard as determined through the 404(b)(1) alternatives analysis. Although the LEDPA analysis is not required by CEQA, a project proponent may tailor the EIR to fulfill both the CEQA and 404(b)(1) requirements to help expedite the Water Board's issuance of a 401 Certification and/or waste discharge requirements under Porter-Cologne. Accordingly, we recommend the City prepare and analyze alternatives in the FEIR that would meet the LEDPA standard to help expedite future Water Board actions, and avoid the potential need for a FEIR supplement or amendment.

The Guidelines sequence the order in which proposals should be approached: 1) Avoid - avoid impacts to waters; 2) Minimize - modify project to minimize impacts to waters; and, 3) Compensate – once impacts have been fully avoided and minimized, compensate for unavoidable impacts to waters. When it is not possible to avoid impacts to water bodies, disturbance should be minimized. Compensatory mitigation for lost water body acreage and functions through enhancement, restoration, and/or

creation should only be considered after disturbance has been minimized. Where impacts cannot be avoided, the enhancement, restoration, and/or creation of adequate mitigation habitat to compensate for the loss of water body acreage, functions and values must be provided pursuant to the California Wetland Conservation Policy (also known as the "no net loss" policy; Executive Order W-59-93).

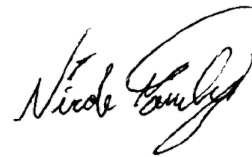
The following are some of the items that should be analyzed in the Alternatives Analysis:

- A. **Alternative Floodplain Terracing Locations:** To ensure the Project will avoid and minimize impacts to existing habitat and beneficial uses to the maximum extent practicable, the Project should perform a reach-wide analysis of habitat value, and alternate locations along the Petaluma River where floodplain terracing could occur with less impacts to a highly functioning riparian corridor. Other locations that would provide flood reduction with less impacts compared to the proposed terracing location (individually or in some combination) should be included in the Alternatives Analysis.
 - B. **Nature-based Floodplain Terracing Alternatives:** To demonstrate that the Project has been designed to avoid and minimize impacts to waters of the State, the Project should perform an analysis of alternative floodplain terracing techniques and grade stabilization techniques. The preliminary site designs show an engineered overflow weir and culvert linking a basin and terraced floodplains to provide flood control. It is unclear at this point what potential impacts the design may present for fish and amphibians, such as stranding or ponding. We encourage naturalistic designs that can passively engage during high flows and drain back into the river un-interrupted for habitat continuity and to mimic natural sediment transport processes. *Mitigation Measure BIO-5C* requires that restoration efforts along the channel will create habitat forming complexity within the floodplain terracing. If disturbance of mature riparian habitat cannot be avoided, the Project should consider re-using willows and large wood on-site to provide habitat features, riparian cover, or as biotechnical stabilization measures.
- 3. Potential Impacts to Biological Resources.** The Water Board regulates waters of the State to protect beneficial uses that support the health and success of aquatic species. Beneficial uses the Petaluma River currently supports include, but are not limited to, preservation of rare and endangered species, fish spawning, fish migration, and cold and warm freshwater habitat (Basin Plan, Chapter 2 and Table 2.6). The Petaluma River is also listed on the Clean Water Act 303(d) list of impaired water bodies due to elevated fecal indicator bacterial levels. A Bacteria and Nutrients TMDL is in development to address the current impairment to beneficial uses. The Project must be designed to protect these beneficial uses and the FEIR should consider all potential impacts to beneficial uses and water quality that could result from the Project.

Please note that the 401 WQC will require additional monitoring beyond what is outlined in *Mitigation Measure BIO-5C, Habitat Mitigation and Monitoring Plan*. The 5-year monitoring period will also include geomorphic monitoring for any sedimentation and/or erosion impacts at the terracing site with the requirement to implement adaptive management measures where necessary. Also, we will require a minimum of 10 years of monitoring for any slow growing trees planted for mitigation to adequately assess their successful establishment.

If you have any questions about our comments please contact Nicole Fairley of my staff at nicole.fairley@waterboards.ca.gov or (510) 622-2424.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Fairley". The signature is fluid and cursive, with a large loop at the end.

Nicole Fairley
Water Resource Control Eng.

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