



## CITIZENS COMMITTEE TO COMPLETE THE REFUGE

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August 21, 2017

Lisa Costas Sanders  
Contract Principal Planner  
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Redwood City, CA 94063  
Via email: [lcostasanders@redwoodcity.org](mailto:lcostasanders@redwoodcity.org)

RE: Response to Notice of Preparation of a Draft Environmental Impact Report for the Proposed 557 East Bayshore Road Project, July 21, 2017

Dear Ms. Costas Sanders,

Citizens Committee to Complete the Refuge appreciates the opportunity to respond and provide scoping comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the 557 East Bayshore Road Project (Project) proposed by applicant SyRes Properties, LLC.

The Citizens Committee to Complete the Refuge has an ongoing interest in wetlands protection, restoration and acquisition. Our efforts have led to the establishment and expansion of the Don Edwards San Francisco Bay National Wildlife Refuge, including the addition of 1600 acres at Bair Island in Redwood City. We have taken an active interest in Clean Water Act, Endangered Species Act and California Environmental Quality Act regulations, policies and implementation at the local, state and national levels, demonstrating our ongoing commitment to wetland issues and protection of Refuge wildlife and habitats.

The close proximity of the Project to the waters, mudflats and tidal marsh of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) and the associated special status and other wildlife species using these sensitive habitats is cause for concern. Inner Bair Island is currently undergoing restoration back to tidal marsh and the Refuge anticipates that populations of federal and state endangered Ridgway's rail and the salt marsh harvest mouse, already present at Bair Island, will be increasing in this area. For this reason, our scoping comments will focus primarily on Biological Resources.

**Project:** According to the August 1, 2017 Planning Staff Report to the Redwood City Planning Commission, "the project site is approximately 14.6 acres in area, located east of US Highway 101 along East Bayshore Road and adjacent to Smith Slough and Bair Island. The site currently contains a vacant movie theater complex and surface parking. The site is surrounded by light industrial uses, car dealerships, and a mini storage facility. SyRes Properties, LLC proposes to redevelop the site at 557 East Bayshore Road with a 338-unit residential building and a 100,000

square foot fitness center building. Parking would be provided below the residential building and at-grade. The residential building is proposed at five stories (55' in height) and the fitness center is proposed at two stories (42' in height). The project includes improvements along the Bay Trail and new public access points.”

**Notification:** The project site is approximately 120 feet from the Refuge boundary; however, it is unclear if the Refuge was specifically included on the list of agencies or property owners that were provided with the NOP document. The NOP includes no reference to the Refuge in the project location or in any graphics or figures. If the NOP document was not sent to the Refuge, an opportunity for this agency to provide scoping comments on the project should be provided, and the Refuge should be included on the recipient list for any future notifications regarding the draft and final EIR and any future study sessions, public meetings and formal hearings for the Project.

### **Biological Resources**

**Existing Conditions:** The DEIR must provide an accurate description of existing conditions on the Project site as well as adjacent areas that could be impacted by the Project. Maps showing the location of the tidal wetlands in the adjacent utility easement and the Refuge tidal marsh, mudflat and slough habitats must be included. Distances from the buildings to the adjacent tidal wetlands and the Refuge should be provided.

Special status species and other wildlife currently using the Project site, the adjacent wetlands and the Refuge should be identified, as well as sensitive sites and habitat suitable for listed species.

All federal, state and regional agencies with jurisdiction over the Project site, the adjacent wetland area, the tidal marsh, mudflats and sloughs in and around Inner Bair Island and the associated listed species and other wildlife that could be impacted should be identified in the DEIR and the basis for their jurisdiction should be provided.

**Potential Impacts:** The Project site is directly adjacent to wetlands and in close proximity to the Refuge and its associated tidal marsh and wildlife. Potential impacts from the Project include the following:

Construction of Public Pathways In or Over Wetlands – The Project Site Plan shows connections from the Project to the Bay Trail. The Plan shows one of the pathways going over tidal wetlands in the adjacent utility easement that are jurisdictional under Section 404 of the Clean Water Act. It is unclear whether construction of the pathway will involve fill or placement of bridges. The DEIR must identify and analyze impacts to this wetland and outline required mitigation, including monitoring and reporting requirements as appropriate.

Swallow Nesting Colony - Cliff swallows (*Petrochelidon pyrrhonota*), a migratory species fully protected under the Migratory Bird Treaty Act of 1918, have nested under the eaves of the Century 12 Theater back walls for over a decade (see attached photos). The location of the nests on the theater varies from year to year. For example, in 2009, the swallows predominantly used the north-facing wall, whereas in 2016 they used the west-facing wall. In the spring of 2016, CCCR member Matt Leddy counted 29 active nests on the west wall of the theater building from

a vantage point on the Bay Trail. There may have been additional nests that were obscured by trees or building angles.

Nesting requirements for the cliff swallow include a vertical structure such as the walls of the theater overhang, a source of mud for nest construction - which they gather from the adjacent arm of Smith Slough - and open foraging areas found throughout Inner Bair Island. Inner Bair Island is part of the Don Edwards National Wildlife Refuge, and these abundant swallows are a significant part of the avifauna on the island.

The California Department of Fish and Wildlife considers February 15 to September 1 to be the nesting season of the cliff swallow, during which time completed nests cannot be disturbed or removed. A mitigation measure related to the demolition of the Century 12 Theater building should be included in the DEIR to document this seasonal restriction.

Cliff swallows are famous for their return to Mission San Juan Capistrano each spring; however, the population of cliff swallows has been declining in Central California (Sauer, et. al., 2017). Because of this regional decline, the size of the colony, and the swallow's long-term use of the Century 12 Theater site, the DEIR should: 1) include cliff swallow nesting in the existing biological conditions for the project site, 2) evaluate how removing the existing theater building nest site will impact this colony and their presence and use of the Refuge, and 3) provide options for re-creating a nesting structure for the colony, either on the project site, or within the vicinity of Bair Island. Collaborative partnerships could be considered for the siting, construction and maintenance of an alternative nesting structure. (Citation: Sauer, J.R., D.K. Niven, J.E. Hines, D.J. Ziolkowski, Jr, K.L. Pardieck, J.E. Fallon, and W.A. Link. 2017. The North American Breeding Bird Survey: Results and analysis 1966–2015. Version 2.07.2017 USGS Patuxent Wildlife Research Center. Laurel, MD)

Bird strike hazards – Smith Slough and Refuge tidal marsh and levees provide roosting and foraging habitat for thousands of birds, and migratory shorebirds, songbirds and waterfowl may traverse the Project area. How will bird strike hazards associated with the new five-story building be mitigated?

Shadowing - The DEIR must identify and analyze shadow impacts from increased building height. The NOP states that the residential building height will be a maximum of 55 feet; however, other project documents state 75 feet. Because of the close proximity of the residential building to adjacent wetlands in the utility easement, and to the tidal marshes and mudflats in the Refuge, especially during winter months, afternoon shadows would extend into these sensitive sites. The area that could be impacted by shadowing includes substantial areas of pickleweed, a marsh plant that is known to be intolerant of shade.

Light - Artificial night lighting that intrudes into nearby wildlife habitats can be disruptive, and may also result in increased predation. Due to the close proximity to tidal marsh habitat, what lighting design and operational measures would be required in the five-story building and for the perimeter outdoor use and landscaped areas to eliminate this impact?

Outdoor areas and litter – The Project includes an outdoor kitchen area with seating. Food scraps left in any outdoor areas and garbage/recycling receptacles could attract nuisance and predatory species such as crows, ravens, gulls, rats, skunks and racoons to the detriment of wildlife in adjacent wetlands and the Refuge. How would this impact be mitigated?

The Project could generate litter that would pollute the tidal marsh and waters of the Refuge endangering wildlife in the immediate area, or get carried with the tides and currents to other locations in Smith Slough and San Francisco Bay. What mitigation measures would be put in place to ensure that the Project does not cause an increase in the amount of litter entering tidal marshes and waters, either from the Project location or from increased use of the Bay Trail?

Predator perches/nesting sites – Landscaping trees, the five-story buildings and light poles and other structures and signs associated with the Project could provide perches for predatory birds such as hawks, falcons, crows and ravens. Unsuitable trees could create avian nesting sites in very close proximity to tidal marsh. Rails and harvest mice are especially vulnerable to predators during high tides, when they are more exposed in the higher marsh and on the sides of levees. The DEIR should outline requirements for building and landscape design elements that would mitigate this impact, including placing trees back from marsh areas, and utilization of the Landscape Tree Suitability Index required for the Pacific Shores Center and Westpoint Marina projects in Redwood City.

Domestic Animals – Project residents’ outdoor cats and off-leash dogs could significantly impact wildlife in the Refuge through disturbance and depredation of birds and salt marsh harvest mice. Allowing feral cat feeding colonies on the Project site would also impact wildlife. Increased use of the Bay Trail by Project residents walking their dogs could lead to water quality impacts from dog waste on the trail. What measures or restrictions will be put in place to mitigate these potential impacts?

Noise and Vibration – Construction of the proposed Project could impact special status species and other wildlife due to noise and vibration from construction equipment. Noise associated with Project-based activities such as building and landscape operations and outdoor activities could disturb nearby wildlife. How will these impacts be mitigated?

With the Inner Bair Island transition to tidal marsh currently well underway, Ridgway’s rail populations could expand into Inner Bair Island and be present during the years that Project demolition and construction takes place. The DEIR should discuss mitigation measures for protecting nesting Ridgway’s rail from construction activity impacts.

Human Disturbance – The DEIR should determine to what extent the level of activity on the Bay Trail will increase in this vicinity with the addition of the two connecting pathways from the Project. Because of the immediate proximity of hundreds of residents, will the types of activities on the trail change? Would greater use of the Bay Trail in a such a concentrated area negatively impact wildlife and how could impacts be mitigated?

Recovery and Conservation Plans - The DEIR should document and consider that all of Smith Slough is included in the 2013 U.S. Fish and Wildlife Service *Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California*, which identifies strategies and geographic areas suitable for the recovery of federally listed species such as the salt marsh harvest mouse and Ridgeway’s rail (formerly California clapper rail) in San Francisco Bay. How will the existing suitable habitat for these two endangered species be protected from impacts associated with the Project?

Impacts to wildlife may range from loss of habitat, increased predation, inability to conduct daily functions (roosting, foraging, breeding, nesting, etc.), detrimental expenditures of energy as wildlife move away from repeated disturbance, reduced recruitment, greater distance traveled to roost sites, etc. Potential impacts to wildlife resources must have effective and enforceable mitigation measures proposed in the DEIR.

### **Hydrology and Water Quality/ Hazardous Materials**

The Project site is adjacent to sensitive aquatic and tidal marsh habitats that could be adversely affected by pumping of potentially contaminated groundwater, construction activities and stormwater runoff.

Below Grade Parking Structure – The Project includes an underground parking garage below residential buildings that may require pumping of groundwater during excavation and construction, and on an ongoing basis. San Mateo County Environmental Health has notified residents with wells in neighborhoods adjacent to Whipple Avenue that the underlying aquifer in this area of Redwood City has been contaminated from leaking underground tanks at gas stations located on Whipple Avenue.

The DEIR must determine if the groundwater in the area of the project contains gasoline contaminants, or chemicals from other sources, analyze potential impacts, and provide mitigation. Pumping contaminated groundwater into the adjacent tidal wetlands is not an acceptable option. If treatment/disposal of contaminated groundwater is not feasible, the DEIR should include and analyze alternative building designs with above-grade parking.

Construction and Stormwater Impacts - Construction activities, including fill and grading, could pollute adjacent sensitive sites with excess sediment, and with chemical contamination from construction materials such as concrete, mortar, hydrated lime, fuels and paint. Stormwater runoff from the landscaped areas associated with the Project could carry pesticides and fertilizer. The DEIR must analyze these potential impacts and provide mitigation measures to prevent pollutants from entering adjacent wetlands and impacting sensitive habitat and wildlife.

According to the NOP, the DEIR will “address the potential for sea level rise to impact the site”. The DEIR must provide adequate information on the proposed measures that will be employed to address flooding from sea level rise specifically, so that the environmental analysis in the DEIR can be evaluated. Any measures proposed should not impact wetlands or sensitive habitats adjacent to the Project Area. Additionally, future SLR/flooding impacts to East Bayshore Road, the only access to the Project site, must be evaluated in the DEIR, and appropriate mitigation provided.

The DEIR should analyze the effectiveness of any proposed measures at various sea level rise scenarios, and consider potential impacts from future modification of these flood protection measures in the event sea level rise exceeds projections. Any future changes to address sea level rise could result in impacts to adjacent wetlands and the public Bay Trail. The DEIR should determine if project buildings should be set further back in order to ensure there would be adequate room to accommodate any necessary future flood protection measures.

## Aesthetics/Alternatives

In the Project Site Plan, one end of the five-story residential building is located very close to the edge of the property that faces the Bay Trail and the Refuge. The DEIR should identify, analyze and mitigate impacts to the views from the Refuge bike/pedestrian trail on Inner Bair Island, and the views and pedestrian experience on the Bay Trail.

When the impacts to Biological Resources discussed above related to height are also considered, including bird strike hazards, shadowing of wetlands, and artificial light, the DEIR should include an alternative that pulls the end of the residential building significantly back, or steps down the height to two stories to be consistent with other buildings along this segment of the Bay Trail.

Thank you for the opportunity to provide comments on the Proposed 557 East Bayshore Road Project NOP.

Sincerely,



Gail Raabe  
CCCR Co-Chair

cc: Aaron Akin, Community Development Director  
Steven Turner, Planning Manager  
Anne Morkill, SFBNWRC  
Jared Underwood, DESFBNWR  
Carin High, CCCR

Attachment

Attachments:



Cliff swallow nests on Century 12 Theater north wall, July 8, 2009. Photo by Matt Leddy IMG\_6116



Cliff swallow nests on Century 12 Theater west wall, May 15, 2016. Photo by Matt Leddy DSC\_0089