



**SANTA CRUZ COUNTY GROUP
of the Ventana Chapter**

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County of Santa Cruz

Attn: CEQA-NEPA@santacruzcounty.us

701 Ocean Street

Santa Cruz, CA 95060

Re: Sustainability Policy and Regulatory Update Draft Environmental Impact Report (DEIR)

The Sierra Club has completed its review of the Draft Environmental Impact Report for the Sustainability Policy and Regulatory Update and is concerned that the document is lacking in several important respects, as discussed further below. First, the DEIR has overlooked changes to the animal species list for sensitive habitat designation, which now seeks to reverse the long standing County policy which has explicitly protected the Monarch Butterfly. Second, the mitigation measures to offset increases in vehicle miles traveled (VMT) are inadequate. Third, as the proposed regulatory update will rely on an ad hoc spot re-zoning paradigm as opposed to significant rezoning and re-designation as part of the update, the DEIR assumptions that development will occur along transit corridors cannot be substantiated. The Sierra Club does acknowledge the important and substantial work that has gone on in the preparation of the DEIR.

DEIR Section 4.4 – Biological Resources

The DEIR fails to acknowledge and assess the removal of explicit County General Plan protections for the Monarch Butterfly wintering sites. The Sierra Club challenges sections BIO-1, BIO-2, BIO-5, and BIO-6.

The current Santa Cruz County General Plan goes beyond federally and state protected species and specifically lists other Species of Special Concern, in Appendix B “Threatened, Endangered or Animals of Special Concern in Santa Cruz County”. This listing provides protection for the Monarch Butterfly wintering sites regardless of their placement on, or removal from, other

lists controlled by outside agencies. However, in the proposed updates, this explicit listing is removed. Current County GP (in pertinent part):

Santa Cruz County General Plan

| THREATENED, ENDANGERED OR ANIMALS OF SPECIAL CONCERN IN SANTA CRUZ COUNTY Updated 3/1/94 | | | |
|---------------------------------------------------------------------------------------------|-----------------------|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SPECIES | STATE/FEDERAL LISTING | SPECIES OF SPECIAL CONCERN | KEY |
| SPIDERS AND RELATIVES | | | |
| Doloff Cave Spider | C2 | | SE State listed Endangered |
| Santa Cruz Telem Spider | C2 | | ST State listed Threatened |
| Empire Cave Pseudoscorpion | C2 | | SCE State candidate Endangered |
| GASTROPODS | | | |
| California Brackish Water Snail | C2 | | SCT State candidate Threatened |
| INSECTS | | | |
| Barbate (Mt. Herman) June Beetle | C2 | | FE Federally listed Endangered |
| Opler's Longhorn Moth | 2R | | FT Federally listed Threatened |
| Monarch Butterfly (wintering sites) | † | | FPE Federally proposed Endangered |
| FISHES | | | |
| Coho (Silver) Salmon | | Yes | FPT Federally proposed Threatened |
| Tidewater Goby | C2 | Yes | C1 Sufficient data to support Federal listing |
| AMPHIBIANS AND REPTILES | | | |
| Santa Cruz Long-toed Salamander | SE/FE | | C2 Listing may be warranted, but data insufficient to support Federal listing. |
| California Red-legged Frog | C2 | Yes | 1R Recommended for C1 status by U.S. Fish and Wildlife Service (USFWS). |
| Western Pond Turtle | | Yes | |
| San Francisco Garter Snake | SE/FE | | 2R Recommended for C2 status by USFWS |
| Horned Lizard | | Yes | |
| BIRDS | | | |
| Bank Swallow | ST | | |
| Black-crowned Night Heron | | Yes | † Species fall into one or more categories: • Biologically rare, very restricted in distribution or declining throughout their range. • Species closely associated with a habitat that is rapidly declining in California. • California population(s) are threatened with extirpation. |
| Black-shinned Hawk | | Yes | |
| Black Swift | | Yes | |
| Brown Pelican | SE/FE | | |
| Burrowing Owl | | Yes | |
| California Least Tern | SE/FE | | |
| Cooper's Hawk | | Yes | |
| Double Crested Cormorant | | Yes | |
| Golden Eagle | | Yes | |

In the proposed update, the Monarch Butterfly has been removed, Appendix K, page K-9:

SPECIAL STATUS WILDLIFE

| Common Name | Scientific Name | Status (Federal/State) | Habitat |
|-------------------------------------|-----------------------------------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Invertebrates | | | |
| Bay checkerspot butterfly | <i>Euphydryas editha bayensis</i> | FT/None | Serpentine grassland in Santa Clara and San Mateo Counties. Primary host plant is native plantain (<i>Plantago erecta</i>) with two secondary host plants: purple owl's-clover (<i>Castilleja densiflora</i>) and exserted paintbrush (<i>Castilleja exserta</i>). |
| Mount Hermon (=barbate) June beetle | <i>Polyphylla barbata</i> | FE/None | Known only from sand hills in vicinity of Mount Hermon, Santa Cruz County, where it occurs in sparsely vegetated ponderosa pine and chaparral habitat with sandy sedimentary derived soils in the Zayante Sandhills formation. |
| Ohlone tiger beetle | <i>Cicindela ohlone</i> | FE/None | Remnant native grasslands with California oatgrass (<i>Danthonia californica</i>) and purple needlegrass (<i>Stipa pulchra</i>) in Santa Cruz County |
| Smith's blue butterfly | <i>Euphilotes enoptes smithi</i> | FE/None | Restricted to Monterey and Santa Cruz Counties, where they occur in coastal sand dunes, coastal sage scrub, chaparral, grassland, and their ecotones. |
| Zayante band-winged grasshopper | <i>Trimerotropis infantilis</i> | FE/None | Open sandy areas with sparse, low annual and perennial herbs on high ridges and hills with sparse ponderosa pine within the Zayante Sandhills formation in Santa Cruz County. |
| Fishes | | | |

This weakening of protection (by removing its explicit listing) then triggers BIO-1, BIO-2, and BIO-3, which refer to adverse effects or conflicts with species identified in local habitat conservation plans.

As a note of reference, the monarch habitat at Moran Lake (within County jurisdiction) “supports the third largest overwintering population (ca 17%) of monarch butterflies in Santa Cruz County, and a considerable portion (ca 5%) of the western migratory population”, emphasis added.¹

Santa Cruz County does indeed have a Management Plan for the Monarch Butterfly Habitat, as seen here:



The Santa Cruz County Board of Supervisors adopted this Plan at its January 25, 2011 meeting.²

49. Public hearing held on the proposed Moran Lake Park Concept Plan and Moran Lake Monarch Butterfly Habitat Management Plan; closed public hearing;
(1) adopted the Moran Lake Concept Plan and the Moran Lake Butterfly Habitat Management Plan as approved by the Parks and Recreation Commission; and
(2) directed Parks staff to submit the necessary design documents to initiate the Master Plan Development Permit process

As the Monarch Butterfly Habitat has an adopted Management Plan, the removal of its explicit listing in the proposed General Plan update implicates BIO-1, BIO-2, and BIO-6. The DEIR has failed to acknowledge this change, let alone assess its impact, and is challenged on this basis.

¹ From Biotic Review by John Dayton, as cited in California Coastal Commission Appeal Staff Report for A-3-SCO-01-034

² Proceedings of the Santa Cruz County Board of Supervisors, Volume 2011, Number 2 January 25, 2011

Although we have limited this discussion to the Monarch Butterfly, it must be noted that many other Species of Special Concern have also been removed from explicit listing in the General Plan .

Any response that simply refers to the CNDBB Special Animals List, which currently lists the Monarch on page 28, is inadequate. The explicit listing must be restored to the General Plan so that control of its listing remains with the County. The failure to have discussed this removal from the General Plan in light of the adopted Habitat Management Plan (HMP) is a deficiency in the DEIR. The failure to have added discussion of this Habitat Management Plan in the updated GP should also be corrected. This HMP was adopted since the last revision of the General Plan, and should be disclosed.

DEIR Section 4.15 – Transportation

Mitigation measures to offset increases in VMT are inadequate

The Draft EIR concludes that the Project does not meet the state-mandated target for reduction of vehicle miles traveled:

Project VMT would not meet the County’s VMT threshold (15% below existing countywide average) for residential per capita and employee VMT (except for retail employee VMT), resulting in a significant impact.

The Draft EIR proposes two mitigation measures that do not fully mitigate the VMT impacts:

Implementation of Mitigation Measure TRA-1 would require development and implementation of a funding mechanism to support regional VMT-reducing projects, and Mitigation Measure TRA-2 recommends a General Plan/LCP implementing strategy to further review parking requirements as another means to reduce vehicle travel and VMT. However, because of the uncertainty as to whether such VMT program could fully fund VMT-reduction measures to the level needed to meet the County’s VMT threshold, the impact may not be fully mitigated to a less-than-significant level, resulting in a significant and unavoidable impact.

The proposed mitigation measures are weak and unenforceable, in violation of CEQA guidelines. Measure TRA-1 offers no timeline for development of a funding mechanism to reduce VMT. Nor does it set any funding goals. Measure TRA-2 calls for a strategy to “evaluate” parking related measures to reduce VMT but nothing to actually implement changes in parking policy. The EIR should draw on existing studies that document reduction in vehicle ownership and vehicle miles traveled due to reduced parking requirements. One existing study found that vehicle ownership in buildings with unbundled parking and car-sharing was 25% lower than in buildings with bundled parking. A [study by Adam Millard-Ball et al](#), showed that access to parking fosters vehicle ownership and driving.

CEQA requires that feasible mitigation measures be employed to mitigate significant impacts. The Draft EIR makes the following statement:

There are no other feasible mitigation measures to reduce VMT in addition to the policies and regulations in place and modified as a result of the proposed project.

This statement asks the reader to believe that nothing else can be done to mitigate VMT. The reality is *other cities have already implemented feasible measures* that can fully mitigate VMT impacts from this Project, including;

1. Devote the Transportation Impact Fee to projects that mitigate VMT from new projects, such as transit and active transportation improvements and bus passes for residents of new development. Currently the Transportation Impact Fees are used to try to mitigate traffic delay by expanding auto capacity on roads and intersections. Mostly this is a futile exercise, since induced travel erodes the short-term congestion relief benefits. Redirecting the TIF to transit and active transportation would reduce VMT from the Project in two ways: by eliminating the increased VMT induced by auto-centric projects, as well as increasing the mode share for non-auto travel. The EIR should cite the use of developer fees to support active transportation and transit in San Francisco, Mountain View, etc.
2. Eliminate County policies regarding Level of Service (traffic delay). Since the implementation of SB 743 it is not legal to use traffic delay as a measure of significant impact. In violation of the spirit behind SB 743, County policy continues to maintain requirements for Level of Service, and fund auto capacity-increasing projects with developer fees that should go to make alternatives to auto travel safe and convenient.
3. Eliminate projects from the Project whose primary purpose is to expand auto capacity, e.g.:
 - a. the expansion of Capitola Rd from two lanes to four lanes
 - b. Install queue-jumping lanes for buses at intersections on Soquel Dr., in lieu of adding dedicated right turn lanes for vehicles.
4. Mandate that the cost of parking to tenants in new development be unbundled from the cost of the unit, allowing tenants who don't park to opt out of parking fees, and that management charge the actual cost of providing parking.
5. In order to be practical for developers, the requirement to unbundle parking costs needs to be accompanied by allowing developers to provide the amount of parking that they determine they will be able to sell/rent to tenants. The parking requirements in Code Section 13.16 are excessive.
6. The current Code section on trip reduction fails to achieve County goals of 15% below the countywide per capita average VMT for residential development (b) 15% below the countywide per employee average VMT for office and service development. In order to meet these goals, as well as state-mandated climate reduction goals, the County should institute a parking tax on private parking on lots above 30 spaces, with the revenue going to transit and active transportation improvements.

Inconsistency with State Climate Legislation

Because the Draft EIR fails to propose adequate mitigation for VMT, the Project with mitigations is inconsistent with SB 743 that requires mitigation of VMT. The Project also conflicts

with the state’s ability to meet GHG reduction goals set by AB 32 and SB 32 and Executive Order EO-S-3-05.

DEIR Section 4.11 – Land Use and Planning

The DEIR, at 3.3.1.2, recites a guiding principle which it claims has “been incorporated throughout the elements of the Santa Cruz County General Plan/LCP”. Of note here is:

- **Focused Development.** New development should be compact, located primarily within existing urban areas, and should feature a mixture of uses and development intensities that support transportation choices.

An objective of the proposed Project for the purpose of CEQA is:

1. **Sustainable Development.** Foster a sustainable growth pattern that focuses on efficient use of urban lands, compact infill development along transportation corridors, and neighborhood-serving land uses; promotes economic vitality; and preserves the county’s natural environmental areas.³ (emphasis added)

At 4.02 the DEIR makes the assumption that the proposed policies “support higher residential density and/or building intensity along transit and multi-modal corridors”. Although the proposal discusses such changes, they do not take the important step of identifying these corridors and, now, in the context of the current project, legislatively designating these areas (typically along the transit corridors) with higher density residential, or the new zoning designations. This failure to make these legislative changes now will require each and every proposed development to have a legislative determination (rezoning or re-designation) as opposed to merely administrative approval. This then further requires developers to purchase property not yet legislatively zoned or designated for their intended use. It is exactly this type of spot zoning approach that interferes with the stated objective.

It is well understood that ad hoc spot rezoning leads to inappropriate parcels being proposed for development. Further, appropriate parcels will present developers with the unfortunate circumstance of having to take the risk of receiving the rezoning or re-designating the parcel.

We assert that the DEIR assumptions of how development will proceed in the future (along transit and multi-modal corridors) cannot be sustained in light of the County’s failure to do the actual planning work for these areas.

³ Sustainability Policy and Regulatory Update, Draft Environmental Impact Report, page 3-8

Summary

We trust our suggestions for improving the review of this project will be carefully considered. Thank you for the opportunity to submit our comments and suggestions. Should you have any questions or wish to discuss these matters in more detail, please contact the undersigned.

A handwritten signature in black ink that reads "Michael Guth". The signature is written in a cursive style with a prominent initial "M".

Michael Guth,
Executive Committee Chair
Sierra Club, Santa Cruz County Group