

89.1.6

1/26/89

## City defining wetlands zone

JAN 89 PAPER

The process of modifying Sebastopol's three-year-old Wetlands zoning designation continued with a detailed discussion of proposed revisions Tuesday night, bringing the intent and direction of the council into clearer focus as they sent the measure back to the drafting table for further changes.

The discussion began with the basic issue of defining wetlands. While generally considered to be those properties in or close to the Laguna de Santa Rosa, the text of the ordinance that creates the W (Wetlands) combining zone needs to be more specific. City planning consultant Bruce Aspinall's draft characterized the most sensitive parcels as "undevelopable," while those less environmentally fragile were termed "developed or developable for urban purposes."

But Mayor Anne Magnie objected to that method. "Developmental characteristics should not define what is and is not wetlands," she complained. "That's bass-ackwards. Define it based on its biological characteristics, not its developmental characteristics." It was a change with which the other council members—and Aspinall—readily agreed.

A key question under the Wetlands zoning is what land uses are to be permitted within that zone. While city attorney Larry McLaughlin kept a wary eye on restrictions that could run afoul of the most recent Supreme Court rulings protecting private property rights, the council sought to be as broad as possible in their limitations for the most sensitive lands, which would be designated W-1 under the ordinance. As the number of restrictions grew, Aspinall suggested at one point that it might be easier to identify the allowable uses instead, and declare everything else prohibited.

The feasibility of residential uses in the W-1 areas, even at a one-unit per-five-acre density, was challenged by environmental activist Richard Nichols, whose concerns about the Laguna prompted the review of the city's Wetlands zoning ordinance.

"That gives the wrong message," said Nichols, "when they're out in the flood plain like that, they'd have to fill to build even one house, and I don't think the Corps is going to allow that."

The Army Corps of Engineers has jurisdiction within the Laguna waterways.

That leaves essentially open space, with some recreational uses, which Richard Johnson noted might simplify the definition process. "If W-1 is open space, let's just call it open space," he suggested.

That would work, Aspinall said, by restricting the Wetlands designation to parcels adjacent to the Laguna while creating a new, separate zoning for the Laguna lands within the flood plain. "The lands that still have an influence on [the Laguna] would still be handled with a combining district," he said.

That will be one of the changes that Aspinall will incorporate in a revised draft that will be returned to the council for further