

May 12, 2014

Mr. Kevin Kahn
Supervising Coastal Planner
California Coastal Commission
Central Coast District Office
725 Front St., Suite 300
Santa Cruz, CA 95060

SUBJECT: Item 12A, May 15, 2014: Marin County LCP Amendment No. LCP-2-MAR-13-0224-1 Part A (Marin LUP Update)

Dear Mr. Kahn:

This letter submitted by Marin Conservation League (MCL) addresses several outstanding issues in the proposed Marin County LCP Amendment (Land Use Plan Amendment, or LUPA). The Coastal Commission Staff-modified version of the LUPA has resolved some of our concerns, but several ambiguities remain unresolved. Clarification is needed to reassure the public that agricultural and biological resources in the Marin County Coastal Zone will be adequately protected throughout the approximate 20-year life of the Amendment. As they now stand, ambiguities have prompted “worst case” speculation over potential future development (build-out) in the Marin Coastal Zone.

Marin Conservation League actively participated throughout the LCP Amendment process in Marin. Our public comments during that time, however, were subsumed under the name of *Community Marin*, a consensus document that presents recommendations of Marin County’s major environmental organizations to provide an environmentally responsible foundation for land use planning in Marin County. Initially written in 1991 and updated several times since then, the document was most recently approved by MCL’s Board and collaborating environmental organizations in 2013. Although *Community Marin’s* recommendations are intended to apply generally throughout the County, a number of them are applicable to Coastal Resources.

Based on MCL Board of Directors’ approval of *Community Marin* recommendations, and on our interpretation of proposed policies in the LCP Amendment, we are submitting these comments and questions as “Marin Conservation League,” independent of other signatories to *Community Marin*.

1. Intergenerational homes in C-APZ district.

- a. Number of homes (farm dwellings). While the current LUP only allows one single family

residence **per parcel** (emphasis added), the proposed LUPA would allow one intergenerational home (in addition to a farmhouse) **per lot** for members of the farm operator's or owner's immediate family as a principally permitted agricultural use. A second intergenerational home could be built as a conditional use (i.e., subject to appeal by the CCC). However, as proposed, the homes cannot be divided from the rest of the agricultural **legal lot**, and must maintain the C-APZ district's required 60 acre density, meaning that a first intergenerational home would only be allowed when **a parcel** is at least 120 acres, and a second only when the **parcel** is at least 180 acres.

The LUPA needs to clarify the distinction between "per parcel" and "per lot" as used in this context. Because *Community Marin* recommends that ". . .any residential development is secondary and subordinate to the primary agricultural use of sites," and an *additional dwelling should be allowed only on legal lots larger than 120 acres*, MCL has objected to the concept of first intergenerational homes without public review. The Staff-modified LUPA recommends a practical cap of 27 for the total number of first intergenerational homes, but doesn't set any cap for 2nd intergenerational homes. MCL is concerned that the number of intergenerational homes that theoretically might be built is not clear except as a maximum, consistent with zoning.

- b. Occupancy of intergenerational homes by immediate family. The County added intergenerational housing to its proposed LUPA as an allowed use (second intergenerational residences were added as a conditional use) as a means of perpetuating the culture of family farms in Marin County by enabling either retiring or succeeding generations – or family members not directly engaged in farm operations – to live on the farm. Family occupancy of intergenerational homes would be enforced by a covenant restricting occupants to be "immediate family members."

Based on interpretation of *Community Marin* recommendations, MCL believes that such a covenant would be impossible to monitor and thus unenforceable. Therefore, we agree with the CCC Staff recommendation to remove from the County's proposed LUPA the ". . . requirement that occupants of intergenerational homes can only be family members and do not have to be actively or directly engaged in agricultural use, in that state and federal housing laws prohibit regulating housing based on familial status."

- c. Square footage of homes (farm dwellings). The LUPA limits the aggregate square feet of one (farmhouse) plus one or two intergenerational homes to 7,000 s.f., plus 1,040 s.f. for ancillary structures and/or office space, bringing the total **per lot (?)** to 8,040 s.f. Whether the total is per lot or per parcel should be clarified. Would the 1,040 s.f. of ancillary structures and office space be divided in a similar fashion?

The limitation of 3,500 s.f. per home (if there are two homes – less if there are three) roughly conforms to *Community Marin's* recommendation to keep residences in Marin at a reasonable size (3,500 plus 500 s.f. of ancillary structures). Therefore MCL supports this limitation.

- d. Clustering of development. In its proposed LUPA the County states that development must be clustered on no more than 5% of the gross acreage of the parcel. This echoes the limitation retained by the County in its certified LUPA that development be clustered on no more than 5% of the gross acreage of the parcel, to the extent feasible. MCL agrees with this limitation because it is consistent with a *Community Marin* recommendation.

2. **Agricultural worker housing.**

The proposed LUPA allows as a PPU agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters **per legal parcel** or 12 units or spaces per legal parcel for agricultural workers and their households. Agricultural worker housing above 12 units **per legal lot** would be a conditional use.

Community Marin supports residential units for workers only where they are directly related to the primary agricultural use of the property, and meet health and safety standards. It does not otherwise address how much worker housing should be allowed. Once again, MCL requests that the distinction between per parcel, and per lot be clarified in this context.

3. **Agricultural product sales and processing facilities**

The proposed LUPA allows as a PPU agricultural product sales and processing of products grown on-site, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales, do not exceed an aggregate floor area of 500 square feet, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet. Product sales and processing of products not grown on-site would require a conditional use permit.

Community Marin recommends limiting product sales structures to 250 s.f., and product processing facilities to 2,500 s.f. Regardless of this difference in recommended size, neither the County's proposed LUPA nor the CCC Staff-modified LUPA specifies the unit of land on which the total square footage of sales and processing facilities would be based – per lot? Per parcel? Per "farm"? Furthermore, no size limit is provided for facilities selling or processing products not grown on site. These clarifications need to be added.

4. Additional issues for the record

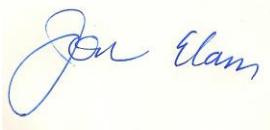
- b. Viticulture. Viticulture is listed in the proposed LUPA as an agricultural operation that does not require a coastal permit. During hearings, the Planning Commission requested that viticulture be removed from the list and that conversion to, or installation of, viticulture require a conditional use permit. County staff disagreed, citing the County's Viticulture Ordinance as an adequate mechanism for "regulating" viticulture.

Community Marin has long held that changes in intensity of agricultural use involving significant grading or intensity in use of water, such as change from livestock grazing to viticulture, should be subject to conditional use review. Conversion of grazing land to viticulture would require grading, cultivation, and/or irrigation, any of which could affect surface and/or groundwater resources as well as alter sediment regimes in water courses. Therefore, MCL recommends that Viticulture should be removed as a principal permitted use.

- c. Grazing in wetlands. *Community Marin* contains numerous recommendations for protection and buffering of wetlands. Although none of them refers specifically to grazing in wetlands, MCL recommends prohibiting agricultural practices that would harm these resources and sensitive wildlife habitat. (E.g., *Community Marin* Recommendation 3.9 "There should be no agricultural activity or any development within 100 feet of a wetland or riparian habitat.")
- d. Wetland and stream buffers and buffer adjustments. Language in the proposed LUPA would allow a 100-foot wetland or stream buffer to be adjusted to a minimum of 50 feet, contingent on a biological assessment. A 100-foot buffer to protect wetlands and streams is listed among policies in the existing certified LCP. The additions to the proposed LUPA which allow a "fall-back" from the recommended 100-foot buffer to a minimum buffer of 50-foot minimum, while appearing to limit adjustments, and recommended by Coastal Commission Staff, would serve as an open invitation to those seeking minimum solutions.

Marin Conservation League appreciates the years of effort put into updating the LCP by Marin County CDA Staff, as well as the Coastal Commission Staff's painstaking review. We believe that some important gaps need to be closed – gaps that leave open the possibility of unwarranted doubts about the future protection of Marin's Coastal Resources.

Sincerely,



Jon Elam, President