

## COMMUNITY MARIN

February 26, 2013

Steve Kinsey, President  
Marin County Board of Supervisors  
3501 Civic Center Drive  
San Rafael, CA 94903

SUBJECT: LOCAL COASTAL PROGRAM AMENDMENTS (LCPA) – **Carry Over Issues, Agriculture and Biological Resources**

Dear President Kinsey and Supervisors:

“Community Marin,” a consensus document written by major environmental non-profit organizations, recently completed its 2013 Update after several years in preparation. The update will be introduced to the Board in the coming weeks. However, even as “Community Marin” was in revision, it contained recommendations that apply generally to resources in the Coastal Zone, if not to specific policies in the LCP Amendments. For that reason we have continued to comment on the evolving LCPA.

We wish to commend CDA staff for their efforts over the past several years to reach out to all interested parties and their continuing analysis of outstanding issues and points of view. Areas that are of particular relevance to Community Marin are discussed below.

### I. **Agricultural Operations: Viticulture**

The Planning Commission separated viticulture from the list of routine agricultural activities and designated it as a permitted use, requiring a coastal permit as well as a separate permit under the County Viticulture ordinance. The Board disagreed, and now viticulture is included as an agricultural operation that does not require a coastal permit, 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 and new agricultural uses, such as change from livestock grazing to row crops, should be subject to review, in this case to a coastal permit. (Note that this requirement would not apply to conversion from one type of row crop to another unless such conversion involved significant new grading or intensity in use of water.) Staff argues that due to the pervasive lack of water in the coastal agricultural zone, requests for conversion to viticulture would be rare. We contend that conversion of grazing land to viticulture would require new grading, cultivation, and/or irrigation, any of which could affect surface and/or groundwater resources as well as alter sediment regimes in water courses.

*Viticulture should be removed as a principal permitted use in C-AG-2 (4), and should be restored to Chapter 22.62.060 (B) and Table 5-1-a as a permitted use.*

## II. Intergenerational Housing

Our comments in this regard are based on a long-standing Community Marin Recommendation 3.1 (under Agriculture), which states that “. . .any residential development is secondary and subordinate to the primary agricultural use of sites.” CCC staff appears to agree and would like to see intergenerational homes and homestays categorized as residential, visitor-serving. . .uses as appropriate. . .and that such uses be required to adhere to strict development standards.

CDA staff has argued that all intergenerational homes would be subject to a Coastal Permit approval. The second intergenerational home . . . would also require a Use Permit, subject to all LCP policies as well as the standards contained in (various sections cited) the Code. In our view, the first intergenerational home, as a principal permitted use, would receive a lesser level of review than a second intergenerational home.

CDA Staff also argues that a covenant that restricts intergenerational homes to “family members” is enforceable because the likelihood of abuse is limited and the number of homes that could be permitted on any given property is also limited. Further, staff states that restrictive covenants and deed restrictions are commonly used by the County.

*The “first” intergenerational home should not be included as a principally permitted use under the definition of “agriculture” and should be subject to both a Coastal Permit and a Use Permit, and the second intergenerational home would be a conditional use, subject to full environmental review.*

*A covenant that restricts occupancy of intergenerational homes to “immediate family” would be intrusive and difficult to monitor, and would raise numerous issues especially for future generations as families expand and become more complex. In our view, it could not be practically enforced by the County.*

*Community Marin also recommends that additional dwellings (other than the “farm house”) should be clustered (not “placed in one or more groups. . .to the extent feasible” – C-AG-7 (B) (1)) on a total of 5 percent of the total acreage. The total square footage of homes, including garages, should not exceed 7,000 sq. ft., and as a further means of limiting estate-size homes in agricultural districts, the total maximum floor area for a residence and associated non-agricultural accessory structures such as garage and home office should not exceed 4,000 sq. ft.*

## III. Grazing in Wetlands

Community Marin contains numerous recommendations for protection and buffering of wetlands. Although none of them refers specifically to grazing in wetlands, Community Marin recommends prohibiting agricultural practices that would harm these resources and sensitive wildlife habitat. (E.g., Recommendation 3.9 “There should be no agricultural activity or any development within 100 feet of a wetland or riparian habitat.”)

Program C-Bio-11.a – Grassy Uplands Surrounding Bolinas Lagoon – refers to the need to develop effective policies to protect against significant disruption of habitat values of upland grassland feeding areas around Bolinas Lagoon for shorebirds. It has been revised to read: “Limited [grazing agricultural](#) use of these lands may be permitted.”

*Because the term ‘agricultural’ can include anything from bee-keeping to viticulture, we recommend that the term grazing be retained as more appropriate to protecting the resources used by wading shorebirds.*

*The policy under C-BIO-14 has undergone much discussion and several revisions. Community Marin supports the recommended revision to C-BIO-14 .*

*We accept the staff revised addition to C-BIO-14 with the understanding, however, that if an “artificial” water feature (such as swale or pond) has replaced historic wetlands that have been degraded in the course of agricultural activities, the replacement should be considered “wetland” regardless of perceived origin.*

#### **IV. Wetland and Stream Buffers and Buffer Adjustments**

The need to maintain minimum 100-foot protective buffers around tidal, seasonal, and other non-tidal marshes, and along stream banks, with or without riparian vegetation, is a key recommendation in Community Marin, and has remained so over several decades. Therefore, the additions to C-BIO-20 and 25 which allow a “fall-back” from the recommended 100-foot buffer to a minimum buffer of 50 feet would greatly weaken the protections that have been set up in policies like C-BIO-19 (Wetland buffers) or C-BIO-24 (Stream buffers). The language already allows exceptions based on possible “taking” of property, and contains mitigation measures that include net environmental benefit.

*Language in C-BIO-20 1. and C-BIO-25 1. that would allow a wetland buffer to be adjusted to a minimum of 50 feet should be stricken from both policies. As stated many times before, a 100-foot buffer to protect wetlands and streams (adjusted in the eastern urban corridor) has been standard in Marin County through the last two countywide plans and should not be weakened for wetlands in the Coastal Zone. The 50-foot minimum, while appearing to limit adjustments, and recommended by Coastal Commission Staff, also would serve as an open invitation to those seeking minimum solutions.*

Community Marin appreciates the opportunity to comment on the LCPA in these final months of a long process, and again acknowledges the painstaking work down by Staff. Our ongoing concern is that important protections afforded to biological resources in the Coastal Zone over the past 30 years might be weakened in the Amendment. In the long term, maintaining a healthy ecosystem also benefits the long-term agricultural productivity and essential water quality of the region. Our recommendations are offered in that spirit.

Sincerely,



Nona Dennis, for Community Marin

- cc. Marin Audubon Society
- eac of West Marin
- Marin Bayland Advocates
- Sierra Club Marin Group
- Marin Conservation League
- SPAWN