



Protecting Marin Since 1934

August 30, 2019

Marin County Planning Commission
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: Silveira Ranch Solar Photovoltaic System

Dear Mr. Paoli, Chair and Planning Commissioners:

The Marin Conservation League (MCL) strongly supports the development of new solar energy sources wherever appropriate. We generally support the above land-based solar project, but we are urging the County to develop a policy for the review and approval of solar energy projects such as this one or at least a checklist of issues which will give applicants a better idea of what to expect from the approval process. MCL could champion this and other such projects if there were assurance that

- a. The complete approval process was open and clearly spelled out,
- b. The project was consistent with the County's agricultural zoning, and
- c. The Countywide Plan was more accurately referenced.

Process

In this case, the notices of the Deputy Zoning Administrator meetings was inadequate. Although one of our members had signed up to receive notices of the Silveira Solar Preapplication, when the DZA meetings were scheduled the project was given a new heading and previous sign ups were not given notice. Although a member went to the ALUC meeting and raised questions and submitted a letter from MCL at it, no notice was given to MCL of the DZA meetings.

The research material for the DZA meeting identified a number of studies had been submitted by the applicant, however, these studies were not made available to the public online. Usually such studies/reports are made available. When updates were prepared early in June, they were not listed, but were made available by the applicant when asked. Information on projects should be easily and readily available to the public.

It is questionable the CEQA exemption relied upon by the DZA is applicable. It does not appear to MCL that a solar facility with 11,310 panels falls within the "letter and intent" of the Class 3 exemption. Class 3 exemption consists of "limited numbers of new, small facilities or structures". 36% of the land will be covered, 652,964 sq. ft. of the site will be covered with solar panels Array 1 appears to be, at least partly within the Baylands Corridor boundaries. Common sense would suggest that multiple solar panels constructed in the environmentally sensitive Baylands Corridor would be a significant effect and have potential cumulative impacts once this precedent is set.

Agriculture

CWP Policy AG-1.7 requires that non-agricultural land uses on agricultural lands to be ancillary to and



compatible with agricultural land uses, agricultural production, and the rural character of the area, and to enhance the economic viability of agricultural operations. Further, CWP Policy AG-1.8 encourages private and public owners of lands that have traditionally been used for agriculture to keep land in agricultural use by continuing existing agricultural uses, developing compatible new agricultural uses, and/or leasing lands to agricultural operators.

A Conditional Use Permit is required for the development of commercial solar facilities in the A-2 zoning district pursuant to Marin County Development code Section 22.08.030 – Table 2-1 (Allowed Uses and Permit Requirements for Agricultural and Resource-Related Districts).

The Silveira parcels in question are zoned A2 (Agriculture, Limited, 2 acres minimum lot size) which is intended for areas suitable for commercial agricultural operations and similar and compatible uses within the unincorporated areas of the County. The uses of land allowed in each agricultural zoning district are identified in Marin County Development Code (MCC) Section 22.08.030 – Table 2-1 (Allowed Uses and Permit Requirements for Agricultural and Resource-Related District. Although Table 2-1 indicates that a commercial solar facility is allowed, subject to Conditional Use Permit approval pursuant to MCC 22.08.040.G, limited commercial uses may be allowed only when: (1) included in a plan for new or continued agricultural activities on the site and surrounding properties, (2) determined by the Review Authority to be in all respects compatible with agricultural operations on surrounding properties, and (3) subject to specific approval in the adoption of a Use Permit.

Through their process, CDA required an agricultural management plan to demonstrate consistency with these policies. In our opinion, it is woefully insufficient and does not contain any information that would lead us to think this project on this property is compatible with CWP policies regarding agriculture.

Countywide Plan Policies

Early in the process the County provided information to the applicant that did not clearly point out the Baylands Corridor of the CWP, but informed them of the Bayfront Conservation Zone. The erroneous use of the Bayfront Conservation Zone distracted the applicant from addressing the requirements of the Baylands Corridor of the 2007 CWP. There was no map in the staff report or the 2007 CWP that clearly showed the boundary of the Baylands Corridor on the subject property. The recent delivery of the Baylands Corridor map (from CDA) clearly demonstrates that the sites all have parts within the Baylands Corridor.

Bio 5.1 Protect Baylands Corridor – the setbacks from the identified wetlands are minimal and reflect more of a standard wetland setback of the City-centered corridor. The Baylands Corridor was meant to protect habitat values by linking wetland and upland areas, avoiding fragmentation and barriers. This project will create fencing that would block wildlife movement and reduce wildlife on the site. Raising the fence slightly above the ground could help wildlife movement – at least for small mammals.

The Land Use designation of AGC3 includes agriculture and conservation uses and allows for non-residential structures at a floor area ratio (FAR) of .01 to .091. That would equate to 18,012 sq. ft to 163,910 sq. ft. where this project proposes 652,964 sq. ft.

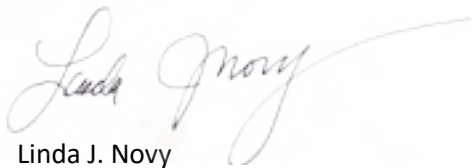
Although the Biological assessment only recognized the White Tailed Kite as a threatened raptor, both the Redwood Landfill EIR and the Gness EIR/EIS witnessed Northern Harrier in that contiguous area. These raptors feed on small rodents, which were evident on the site. Rabbits would not have access to the site if the fencing goes to the ground.

Bio 1.5 encourages use of native vegetation. The project calls for non-native potato vine on the 8 foot high fencing around the whole site. Something more appropriate should be used.

Would the sheet flow of rain off the panels have a significant impact on the size of the wetlands? If the wetlands increase in size will panels need to be removed to maintain the setback?

MCL has encouraged the County to develop a solar policy to provide solar developers and the public more specific information and expectations for projects such as this. By doing so, the County would help to expedite projects in appropriate locations and save staff time. In the alternative the County could facilitate discussion of relevant issues by requiring an Initial Study for every proposed solar project. Best Management Practices would help to assure that major issues common to most solar projects were addressed. MCL urges the county to take steps to improve the currently fractured process for review and approval of solar projects such as this one.

Sincerely,



Linda J. Novy
President



Susan Stompe
Chair, MCL's Land Use and Transportation Committee

Cc: Judy Arnold, Supervisor