



PACIFIC LEGAL FOUNDATION

May 8, 2017

Marin County Board of Supervisors
c/o Ms. Kristin Drumm
3501 Civic Center Drive
Suite 329
San Rafael, CA 94903

**VIA E-MAIL kdrumm@marincounty.org
AND FIRST-CLASS MAIL**

Re: Marin County Local Coastal Program Amendments

Dear Honorable Supervisors:

Pacific Legal Foundation submits these comments on the proposed Marin County Local Coastal Program Amendments.

Pacific Legal Foundation is the nation's oldest public interest property rights foundation. Over the last several years, PLF has closely followed Marin County's Local Coastal Program Amendment process. PLF attorneys have submitted comment letters and appeared in person at Marin County and California Coastal Commission hearings to highlight constitutional and other legal infirmities in provisions of the Local Coastal Program Land Use Policy Amendments and the Implementing Program.

Several provisions remain within the final Implementing Program that are especially concerning to PLF. These provisions could have substantial negative consequences for ranchers and farmers in Marin County. First, the Program's mandatory merger of legal lots into larger "farm tracts" would significantly limit—and potentially eliminate—landowners' development rights on agricultural land without providing just compensation as required by the Takings Clauses of the United States and California Constitutions. Second, the Program requirements imposing affirmative agricultural easements and restrictive covenants on the division of land as conditions to development permits would likely constitute unconstitutional exactions.

Limitation of Development Rights

As we have previously pointed out, the final Implementing Program contains provisions that significantly reduce landowners' development rights. The existing certified Local Coastal Program

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allows landowners to seek approval through a Conditional Use Permit or Master Plan process in order to build additional residential units beyond a primary dwelling unit. The currently established C-APZ-60 zoning allows for the development of one additional residential house per 60 acres. Under the new Land Use Plan, no single-family residential use will be allowed within the C-APZ zone, only agricultural dwelling units. Section 22.32.024(B) of the proposed Implementing Program limits the number of total structures to three agricultural dwelling units per “farm tract.” Section 22.130.030 in turn defines “farm tract” as “all contiguous legal lots under common ownership.”

This merger of legal lots will result in a substantial reduction in the development rights for landowners in the coastal agricultural zone of Marin County. For example, within a single large farm tract, an owner could be left with one or more legal lots deprived of all economically viable use. Regulations that deprive property owners of all economically viable use are a per se taking under *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).

Worse, Section C-AG-5(A) of the Local Coastal Program Land Use Plan caps additional permissible intergenerational homes at 27 for the entire Coastal Agricultural Zone. Once those 27 homes have been permitted, remaining farm tracts and legal lots will necessarily be deprived of all development rights. This increases the risk that Marin County will be subject to future claims of *Lucas*-type takings.

Even for lots that retain some economically viable use, the destruction of previously held development rights may require compensation under *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978). The California Court of Appeal has recognized that such a significant downzoning of property rights may effect a compensable taking. See *Avenida San Juan Partnership v. City of San Clemente*, 201 Cal. App. 4th 1256 (2011) (finding a regulatory taking where a change in zoning definition reduced development rights of a 2.85 acre parcel from four dwellings per acre to one dwelling per twenty acres).

The act of merging legal lots into farm tracts for the purposes of determining development rights is itself constitutionally suspect. The issue of what constitutes the “parcel as a whole” within a takings analysis is docketed for review before the United States Supreme Court in the case of *Murr v. Wisconsin*, 859 N.W.2d 628, *review denied*, 862 N.W.2d 899, *cert. granted*, 136 S. Ct. 890 (2016) (determining whether two legally distinct but commonly owned and contiguous parcels must be taken as a whole for the purposes of takings analysis). The outcome of *Murr* could potentially render this provision of the Program unconstitutional before it is even enacted.

This county-wide diminution of development rights is not only constitutionally questionable, it is unnecessary. Many ranchers and farmers in Marin County have voluntarily transferred conservation easements that protect agriculture and restrict development while preserving the value of their development rights. However, the Program’s definition of farm tract, combined with its unit cap on development, will extinguish these rights for other landowners without providing compensation.

PLF urges the Board to reconsider this wholesale unsettling of the property rights expectations of ranchers and farmers in Marin County.

Affirmative Agricultural Easements and Restrictive Covenants on Division of Land

Section 22.32.024(A) of the final Implementing Program also contains a requirement that each “agricultural dwelling unit” be “owned by a farmer or operator” that is “directly engaged in agriculture on the property.” This will require property owners to remain in a commercial agricultural market forever, even if continued commercial agricultural use becomes impracticable.

The Program defines “actively and directly engaged” as “making day-to-day management decisions and being directly engaged in production . . . for commercial purposes,” or “maintaining a lease to a bona fide commercial agricultural producer.” Section 22.130.030(A). This provision affirmatively requires landowners to participate in commercial agricultural markets in perpetuity—either personally or by forced association with a commercial agricultural producer. The requirement prevents the landowners, as well as their successors, from ever exiting the commercial agricultural market, even if temporarily following the land was necessary to prevent significant economic hardship.

PLF has already successfully challenged a less onerous affirmative easement permit condition. *See Sterling v. California Coastal Commission*, No. CIV 482448 (Cal. Sup. Ct. June 18, 2010). In *Sterling*, Judge George A. Miram of the San Mateo County Superior Court held that an affirmative agricultural easement on 142 acres, imposed as a permit condition for the development of a single acre, violated *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). The proposed Marin County affirmative easement requirement goes even further than that in *Sterling*, requiring perpetual *commercial* agricultural use.

Nollan and *Dolan* require an essential nexus and rough proportionality between the permitting condition and the public impact of a proposed development. Conditioning a permit for a single dwelling on the perpetual use of the property for commercial agricultural purposes fails the essential nexus test, because a requirement for perpetual commercial agricultural use is not closely related to the impact of building a single dwelling. This is especially true where potential dwellings might be desired on sites that are not currently in agricultural use, or that may not even be suitable for such use. Similarly, the affirmative easement condition demands far more concessions than those needed to relieve the public impact emanating from the construction of a single dwelling, falling afoul of *Dolan*’s rough proportionality test. The proposed agricultural easement requirement will not survive the heightened scrutiny of permitting conditions applied under *Nollan* and *Dolan*.

Restrictive covenants against further division of legal lots also will be required as a condition of development. *See* Sections 22.32.024(J)(4) & 22.32.025(B)(4). A permanent restrictive covenant against subdivision of land placed on a large legal lot as a condition for construction of a single

dwelling will run afoul of the same nexus and proportionality requirements of *Nollan* and *Dolan*. Much like the affirmative agricultural easement—and especially in conjunction with it—this requirement likely constitutes an unconstitutional exaction.

If Marin County wants to encourage agricultural use, other means are available, such as the use of tax incentives. *See, e.g., Williamson v. Commissioner*, 974 F.2d 1525, 1531-33 (9th Cir. 1992) (discussing provisions of estate tax law providing special benefits to property used as a family farm). Placing unconstitutional conditions on the ranchers and farmers of Marin County only serves to open Marin County to potential litigation for takings claims.

Conclusion

PLF has fought for the property rights of all Americans for over four decades. PLF requests that the Board give close consideration to the objections raised in this comment letter. The proposed Coastal Program amendments and Implementation Program amendments place severe—and potentially unconstitutional—burdens on the property rights of Marin County landowners, with many of these burdens acutely directed towards the agricultural community. PLF urges the Board to consider these burdens while considering action on the proposed LCP amendments.

Sincerely,



JEREMY TALCOTT
Attorney

LAW OFFICES
TESLER & SANDMANN

PETER B. SANDMANN

PAULINE H. TESLER
CERTIFIED FAMILY LAW SPECIALIST
STATE BAR OF CALIFORNIA

MEMORANDUM

**TO: Kristin Drumm, Senior Planner
Marin County Community Development Agency**

FROM: Peter B. Sandmann

DATE: November 29, 2016

**SUBJECT: LCP Amendments
Dec. 13, 2016 Board of Supervisors Hearing**

.....

You requested that I comment on behalf of the Seadrift Association with respect to the proposed modification of LUP section C-SB-2 by the staff of the Coastal Commission, namely the deletion of the words "only limited" from that section as it had been submitted by Marin County. Here is the section with the proposed modification for your convenience:

C-SB-2 Limited Access in Seadrift. Allow ~~only limited~~ public access across the open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift subdivision to protect wildlife habitat subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73.

This attempt by the Coastal Commission staff is typical of their efforts to change the historical record and impose standards and policies that further their own political agendas regardless of any legal justification. It is inconceivable that Coastal Commission staff could not be aware that the very Deed of Open Space and Limited Pedestrian Easement to which section C-SB-2 refers, specifically provides by its own terms that public access is limited. The grant of access in the deed, as recorded, provides in pertinent part as follows:

1. USE OF PROPERTY. The use of the Property shall be limited to Limited Pedestrian access and open space, recreation, and resource conservation uses. Pedestrian access shall be limited to periodic use by educational and environmental organizations by appointment with the landowner.

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Furthermore, modification of C-SB-2 at proposed by Coastal Commission staff would be a direct violation of the terms of the March 16, 1994 settlement agreement between the Seadrift Association and the Coastal Commission as well as the County of Marin. In pertinent part, that settlement agreement provides as follows:

10. Agreement to Refrain From Making Other Claims

The parties agree that none of the parties shall in any manner . . . file or make, any claim or demand . . . that would allow pedestrian, equestrian or vehicular use by members of the public over the internal roads of the Seadrift Sandspit, except in cases of emergencies; provide access by members of the public . . . to those portions of the Seadrift Sandspit comprised, as of the effective date hereof, of filled lands, or . . . to any other part of the Seadrift Sandspit located above the mean high tide line So long as the Seadrift subdivisions continue to be substantially used for residential purposes in the form of single family residences, so that the kind and intensity of uses are not substantially changed, the CCC, SLC and the County of Marin agree that none of them will impose in any permit for improvements to the Seadrift Sandspit any condition which requires greater public access to the Seadrift Sandspit than required by this Agreement.

Clearly, to the extent that C-SB-2 is intended to provide guidance in the future, it should be consistent with the restrictions on which the grant of access is based. The proposed deletion should not be adopted. (Note that section 22.66.040B of the IP contains the same language, but that section is apparently not proposed to be modified by Coastal Commission staff, nor should it be.)

.....

In addition to the issue of C-SB-2, I would like to call your attention to the proposed definitions section of the LCP amendments as set forth in section 22.130. Specifically, the definition of Existing Structure contains a limitation regarding shoreline protective devices that is not appropriate and should be deleted. The section as proposed states in part as follows:

For the purpose of implementing LCP policies regarding shoreline protective devices, a structure in existence since January 1, 1977.

There is nothing in the Coastal Act that supports defining the word “existing” as if it only applies to structures that were extant when the Act was adopted. In fact, where the Act uses a date other than the present date in applying the word “existing,” it references a specific date. For example, in Section 30614(a) of the Act, the provision refers to “conditions existing as of January 1, 2002.” In contrast is Section 30610(g) of the Act, for example, which provides that although no Coastal Permit is required for “the replacement of any structure . . . destroyed by a disaster,” nevertheless, “the replacement structure shall conform to applicable existing zoning

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requirements.” Clearly those zoning requirements are the current ones, not those that existed when the Act was adopted. To like effect are numerous other provisions of the Act.

Previously, the Environmental Hazards sections had contained a specific reference to the Seadrift shoreline revetment seawall as authorized by the Coastal Permit issued in conjunction with the 1994 Settlement Agreement between Seadrift and the Coastal Commission (among other agencies). However, that reference has now been deleted, and for that reason, the definition of “existing structure” as it may be applied in the case of Seadrift is a serious concern. The permit for the Seadrift seawall states specifically that it is issued “in perpetuity,” and there is nothing in the permit itself nor in the Settlement Agreement that restricts the benefits of the seawall to structures that existed seventeen years before the Settlement Agreement was approved, nor, for that matter, almost forty years before the current date. The definition of Existing Structure should be revised to remove the restrictive language regarding shoreline protective devices.

One other definition that seems to have been overlooked is the definition of “Redevelopment.” That definition should be removed in its entirety. It is based on the same provision in the Environmental Hazards section that has now been tabled, and until the EH sections are revised and adopted, whenever that may occur, the definition of “redevelopment” should be tabled as well.

.....

The provisions of 22.65.070 as applied to height limitations in Seadrift are somewhat compromised by the decision to remove references to the Environmental Hazards sections. For example, 22.65.070D1 still refers to LUP policy C-EH-5, but that policy no longer exists, and the section needs to be modified accordingly. Moreover, in both subsections D1 and D2, the edited language states that maximum allowable heights “may be modified,” but there is no explanation for the manner in which such a modification can occur. The substance of the provisions seems correct, but the syntax needs some minor work.

Subsection E of 22.65.070 also needs some minor edits. I have provided a redlined version here for your convenience.

Public access requirements. Public access within the Seadrift Subdivision and on the ocean beach adjacent to Seadrift shall comply with the provisions of this LCP and the March 16, 1994 Settlement Agreement between the Seadrift Association and the County of Marin, et al., in ~~Kelley~~ Kelly et al. v. California Coastal Commission, et al., Marin County Superior Court Case No. 1529988, and as set forth in that certain Deed of Open Space and Limited Pedestrian Easement and Declaration of Restrictions dated November 1, 1985, and recorded March 26, 1986, Marin County Recorder’s Office.

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The Appendix that allegedly contains the Seadrift Settlement Agreement is a mess. It includes excerpts from settlements in two different lawsuits that occurred a decade apart from each other. Moreover, the terms of the Seadrift Settlement are completely out of order so that it is virtually impossible to decipher the provisions of the agreement by reference to the Appendix. I am attaching to my email to you a copy of the original agreement (albeit without the signatures of all the individual property owners who issued the easements called for in the agreement), and I suggest that you substitute my attachment for the mish mash of documents presently contained in that portion of the Appendix.

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There are numerous provisions in the current amendments that still refer to the Environmental Hazards sections, even though those sections are not being considered at the present time. These include, in the IP, in section 22.64, Note (4)d. of Table 5-4-a; and Note (4)d. of Table 5-4-b; section 22.64.045 3D3; section 22.64.045 4D6; section 22.64.100A4; section 22.64.110A4; section 22.65.030C1(b) and H4; section 22.65.060C; section 22.65.070D1 and D2; section 22.66.080C; section 22.66.090B, and in the LUP, section C-DES-4 4; C-DES-11; C-CD-6; and C-TR-3.

cc: Brian Crawford, Director
Jack Liebster, Principal Planner

From: JConlan@aol.com
To: [MarinLCP](#)
Cc: [Drumm, Kristin](#)
Subject: DEC 13,LCP Board of Supervisors Meeting
Date: Friday, December 02, 2016 4:06:20 AM

Honorable Board Members,

RE: MARIN COUNTY CALIFORNIA COASTAL COMMISSION LCP

What would you think of **your local government if they *denied you the use of the separate legal parcel lot next door you owned*, to build a house for your son or daughter or grandma and grandpa? Yet a stranger from Sacramento could purchase your parcel and build what you could not?**

And if somehow Grandpa and Grandma could be finally allowed, if they were unable to be actively involved in the day to day hands on work in their garden, they would be jettisoned off the premises, someone else placed thereon to manage and live there?

Now suppose your local government also required Grandpa's home to be out of sight of the street, and limited the size so that their wheel chairs could not maneuver the rooms and bathroom?...

And if you replaced your home roof because it was raining in your bedroom, you would need not only the usual permits, but now an expensive usually delayed California Coastal Commission hearing for a permit?

IF THE MARIN LOCAL COASTAL PLAN IS APPROVED BY THIS BOARD OF SUPERVISORS, It may touch your life, or the life of a loved one WITH IRREPARABLE HARM FOR GENERATIONS.

Please take a few minutes to read the 26 page *Final Implementation Program (IP) for Agriculture Resubmitted Text 22.32.021 et seq.* which was accepted by this Board of Supervisors in September 2016, without the outcry it deserved and the overlook of letters of protest, including mine, as I was unable to attend due to health issues.

Most people whose lives and assets will be irreparably harmed have not even read this legislation. Those who have, find it confusing, contradictory, and unbelievable.

My heartfelt thanks to those on this Board who kindly replied to my letter of protest, and you know who you are, your kindness and thoughtfulness will not be forgotten with many blessings.

Unfortunately my own Dist 4 Supervisor Steve Kinsey, for whom I had held in high regard and supported in his last term re-election did not give me courtesy of a simple acknowledgment of the concerns of West Marin Farmers and

Ranchers.

He who in the last eighteen years of his powerful position, as we look back, see our neglected roads, no cell service, no Internet service and yet we are an hour or so from San Francisco, in the year 2016.

Shame on Dist 4 Supervisor and his appointed Planning Commissioner who declared, "*a double wide trailer is good enough for those farmers out there in West Marin*" and "*they didn't need generational housing for 30 years so why do they need them now?*"

On a second appeal to my Dist 4 Supervisor, his reply a amazing. Rather than help find some solutions, his response was an insulting, patronizing and demeaning heart breaking reply to a senior member of the farming community, which I quote verbatim:

I am writing to confirm receipt of your correspondence. It is regrettable that someone with so much to appreciate lives so unhappily. While I, too, regret the breakdown in our relationship, you now have the opportunity to work with someone else on the issues you fault me for

Steve Kinsey

Today I thank this Board, for an opportunity to speak out for the many who cannot, or are too ill, or frightened to speak for themselves when it comes to the subterfuge in stealing their real property, farms and ranches, which they have worked a lifetime to preserve.

I represent myself and some other folks we call ourselves "*West Marin Old Timers*" those forgotten, some too old to work the farm, and some no longer on Planet Earth but stood in picket lines for long hours, when Congresswoman Woolsey attempted to place our beloved farms and ranches in a National Park.

We remember our long hours of defense, Woolsey's team even interrupting a family celebration at the *Inn at the Tides* with a warning to one of our "agitators". Our members remember well.

Yet it is noble for this Board to support with County Legal Counsel a defense for those farmers and ranchers in Point Reyes National Park who are threatened to be jettisoned off their lands, just as the LCP threatens to jettison Grandma and Grandpa too old to be "actively engaged" in the day to day farm work which is a requirement to live on the lands under the new proposed **Local Coastal Plan (LCP)** in West Marin.

This Agricultural portion of the LCP was modeled after the MALT contracts precisely to make the remaining 55 thousand acres uniform with MALT contracts, or as MALT Director notes, he seeks to place the remaining 55 thousand farm acres remaining in Marin County into MALT which has grown unrecognizable from its original Trust.

(Only now with the LCP he (MALT) won't have to pay the landowner because the LCP

restricts that which MALT would have to pay. As for, one of our members, he thought it sounded like collusion between MALT, Steve Kinsey, and the Coastal Commission)

Even the venerable MALT co founder Ms Faber, and Albert Straus spoke to deaf ears at the last Coastal Commission hearing in Half Moon Bay at that luxury hotel..as well as at the Planning Commission meeting sometime earlier.

Once again I write to point out the "unintended unfair consequences" of the proposed LCP

This legislation amounts to an Eminent Domain taking without compensation because it merges those separate legal parcels under the same ownership.

Or as one farmer called it, "*This is a down zoning of your farm you have put together*" ...and we all recall our "blood sweat tears and toil" .

NOW, just because you have separate legal **adjacent parcels**, LCP **blends them into one**, so that you, farmer Jones, cannot build another house on that separate legal lot for your kids or grandpa and grandma.

But hey! A Sacramento farmer can buy one of those parcels and do what you can't! Is that fair? .Is this America?

The significance of this facially unconstitutional "taking" will accomplishes a park system. I bet you don't remember former Congresswoman Woolsey's attempt to put all of West Marin in a National Park, and Supervisor Kinsey was her loyal supporter?

Now these lands cleverly in fact, if LCP is accepted, will result in a park, because of the restrictions on farming and ranching. Malt could indeed transfer and work with the National Park System.

Congratulations to former Congresswoman Woolsey, your protege Steve Kinsey "got er done!" said one farmer.

Most government parties have depended on Dist 4 Supervisor Steve Kinsey to explain the complex LCP regulations and educate his government brothers and sister about exactly what this LCP is all about, because it is only his District 4, which is enormously impacted.

But alas Dist 4 Supervisor, is also a MALT Director, and is also a CA Coastal Commission Chair.

Wow! in his conflicting roles he must choose which of his fiduciary duties are premier?

Must he take care of his neglected District 4 Constituents which after 18 years his representation still has provided no cell or Internet service? When land lines go down, which is frequent in WestMarinwith high sea winds, so no emergency calls can be made,

Sheriffs cannot report an accident they are without communication? Pot hole in roads? No Internet? Rotten unsafe roads (Whittaker Bluff) on cliffs where school buses travel?

Trees in county right a way (Valley Ford Franklin School Road near Whittaker turnoff) which need to be removed before killing a passing vehicle cyclist or pedestrian?

But wait, Supervisor Kinsey has serious official business which supercedes his local constituency. He must defend himself against that pesky action by a nonprofit organization in San Diego, whose Director is a retired honorable City Atty, seeking millions to be paid to the State, in a personal action against Dist 4 Supervisor in his role as CCC Chair along with four others for breaking the law, the non profit alleges.

Southern California newspapers called it "fraud secret under the table deals, malfeasance in office". What's that we ask? Well, according to So CA newspapers, it alleges failure to obey the law, which requires timely and completely reporting of ex parte communications as required by existing law describing these "ex parte" personal communications to a Commissioner, alleged to have been secret little negotiations under the table with parties in interest.

Now what government official you know would do such a thing?

Thank Goodness for these accused Coastal Commissioners that California taxpayers dollars have stepped forward to defend District 4 Supervisor Steve Kinsey, and his four other Coastal Commissioners in the form of the California Attorney General's Office which normally finds itself on the other side of the coin, prosecuting such cases where an oral or written communication is not on the public record, timely reported, as required by law.

Is this Board of Supervisors aware that the issue of merging separate legal parcels under the same ownership is this term before the US Supreme Court in Murr v Wisconsin?

The Pacific Legal Foundation, laid out the case against the Marin County Local Coastal Plan very succinctly which apparently sailed right over the heads of all Coastal Commissioner's. The California Cattlemen's Association signed on to complain as well, but the Half Moon Bay Commissioner's gave CA Farm Bureau's Attorney only 2 minutes to present concerns!

The Commissioner's questions at the recent Half Moon Bay hearing demonstrated their ignorance of the facts depending on the representative from the county of origin Marin LCP Chair Kinsey, who is reported to have "cleverly given" the Chair over to another, and as final speaker on the CCC podium moved for certain exceptions and select modifications which the apparently uninformed Commissioners agreed.

I told Dist 4 Supervisor he sold those of us in the West Marin north farming community, "*down the river*" which this generation finds betrayal for his absence of advocacy for his constituents.

Today I ask this Board to read carefully the Agriculture portion of this LCP which will destroy agriculture in Marin as we know it today. No local food production, and your Farmer's Market will be just another market with global and national foods imported from outside the County and completely opposite to that which was promised the locals who voted their tax dollars to make Marin County unique..

Please do not accept this LCP, recall the document and have a town hall meeting, and listen to the farmers and ranchers who will have to break up heritage family ranches some over 150 years, including mine.

I ask you to reread my re edited *letter* to the Planning Commission which I have cut and pasted below. You will appreciate the frustration of this **awful LCP which puts a gun to the head of a landowner and merely takes the land.**

CONLAN RANCHES CALIFORNIA

Mail to PO Box 412, Valley Ford, CA

94972

September 16, 2016

The Marin County Planning Commission

C/O Marin County Community Development Agency

via e-mail Kristin Drumm: kdrumm@marincounty.org

Subject: **Marin County Local Coastal Program Amendment (LCPA):
Planning Commission public hearing September 26, 2016**

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Honorable Commissioners

Conlan Ranches California (hereafter (CRC) is Marin County's oldest (1866) working ranch with Certified Organic Lands, Certified Animal Welfare Approved, American Grass Fed production of rare Wagyu (Kobe) beef cattle

CRC is not under contract with the Marin Agricultural Land Trust, (MALT) contract at last reading, because it required the landowner to assign the "*exploitation of solar rights to MALT and its Assigns*", without designating metes and bounds which would subject the

entire ranch to solar panels, and MALT's ability to sell the "exploitations of solar rights" to third parties;

Two thousand acres in Monterey County were removed from farming, and First Solar (a Wal Mart heir Corp) has now covered one thousand acres in solar panels, for the ultimate benefit of Apple Corp and PG&E. See *California Flats* project.

The California Coastal Commission (CCC) Local Coastal Plan (LCP) was modeled consistent with MALT contracts, to make the county farm lands “uniform”, with older contract revisited with more compensation for “affirmative farming” and “*exploitation of solar rights to MALT and its Assigns*”. with Measure A funds.

CRC is operated by the descendants of 1866 settlers, Widow Ione Conlan and her great nephew Guido Frosini. The CRC ranch lands, are composed of three separate legal contiguous parcels.

CRC has the honor of being the only over one thousand acre family preserved ranch lands (under the jurisdiction of the Gerrymandering CCC jurisdiction), which has received numerous environmental awards.

In 2014 CRC was awarded the Western USA Regional Environmental Award winning over six states including Hawaii sponsored by the USDA NRCS, US Fish & Wildlife, National and State Cattlemen’s Association et. al.

In 2015, CRC was elected by Eco-Farm at its 35th Annual Conference in Asilomar, to present the Eco-Farm “Successful Environmental Farmer” speaker”, as well as workshop leader.

In 2016, CRC was elected at the Napa Farm Aid Gala as their environmental “Farm Hero”

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Also on July 13, 2016, at CAL EXPO Sacramento State Fair, CRC received an Award from the prestigious California Agricultural Heritage Club, the oldest Agricultural Club in California, for reaching 150 years in continuous agriculture by the same family on the same lands.

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This 150 year achievement by descendants has not been without enormous personal sacrifices in each generation. Garth and Lone Conlan, suffered ten years of Bankruptcy (1984-1994) paying every creditor in full with interest. Inheritance taxes have purchased the lands ten times over.

CRC has survived drought, floods, lightning strikes, vandalism, fire, thievery, cattle rustling, predators human and animal, and through “*blood sweat tears and toil*” has persevered.

The enormous personal sacrifices that keeps these magnificent lands beautiful and pristine are beyond what any member of this Planning Commission, Board of Supervisors Members could possibly imagine.

CRC co-exists in harmony with wild habitat, however suffering the CCC gerrymandering land **CCC exemptions** of nearby neighbors who reside on 250 lots, in astonishing homes perched above the cliffs of the bay, with beautiful ocean views within sling shot of CRC’s back 40, visible on the ridgeline, within sight of public roads, and harbor their own two open sewer pits with impunity, placed below their own smell and view

These two open surface sewer ponds provide migrant birds a habitat, and they are vectors of undesirable invasive weed seeds and disease. Unfortunately these aerial migrant wildlife vectors land on adjacent farm lands and adversely affect farm lands and livestock, on lands whose landowners have not been so politically privileged to have had their lands carved out of restrictive CCC jurisdictional regulations . One farmer advised this writer has not been outspoken, in fear of retaliation (from an undisclosed source)

CRC Trustee Widow Lone Conlan, has appeared in person before this Commission and Board of Supervisors and has submitted comments and concerns regarding the inequities presented by this LCP including but not limited to:

- (a) Modeling this LCP after MALT contracts, thus usurping by legislation that which MALT has compensated others, with no need to compensate that which legislation has accomplished.

- (b) Merging contiguous legal parcels which is a diminishment of land value, and an unconstitutional taking of property without compensation, which also allows third parties to utilize lands for which the resident owner is forbidden the same privilege.
- (c) Euphemistically naming mandated “day to day work” on the lands or be jettisoned off (Good bye grandma and grandpa who have spent a lifetime working on the farm) assigning an obtuse title of *“Affirmative farming”* to accomplish this end.
- (d) Clustering of buildings, cramming all buildings in a huddle to ostensibly *“save more land for agriculture”* which explanation fails the laugh test.
- (e) Hiding all farm buildings from public road sight, and never on a ridgeline, to avoid offending the occasional passerby arrogant snob, who may be alarmed to observe the hard work that takes place on the farm to provide him that filet mignon with béarnaise sauce
- (f) Restricting buildings to 8,040 sq. ft. including the two allowed intergenerational homes, if farmer Jones is lucky enough to grab one of those only twenty-seven (27) allowed in the entire coastal jurisdiction areas of Marin County.
- (g) Promoting the audacious notion that *“we don't want any Mc Mansions up in West Marin”* while allowed in all other areas of Marin County is an arrogant snob based concept that would have farmer Jones remain in the farm ghetto of West Marin, without cell service and other amenities others areas in Marin enjoy.

That farmer Jones who worked a lifetime on his lands cannot have a tennis court, rural recreation, swimming pool or any other hard earned pleasure, without additional expensive and delayed CCC permits, because some affluent parties want the West Marin Farmer to be confined in a farm ghetto part of Marin County, notwithstanding some who already have theirs, using their connections, *wink wink*.

Recall one Planner is reported to have declared, “A DOUBLE WIDE TRAILER IS GOOD ENOUGH FOR THOSE FARMER UP IN WEST MARIN”and *“well they didn’t need generational housing before so why should they have some now”* (check out

archive records)

This writer heard another Planner who lived in a four million dollar neighborhood, state with a straight face, West Marin “*farmers don’t have to live on the farm to farm*” and knew some who didn’t live on their farms. Yes, and wanted to be assured that if a generational house was allowed, it would have to be someone working on the farm or be jettisoned off the land.

Who hasn’t heard of the mail box “farmer” who collects USDA subsidies for wheat, sorghum, peanuts, rice, and other commodities? These farmers in West Marin do it the old fashioned way. They earn it the hard way which is difficult for some privileged folks to understand.

- (h) Requiring CCC expensive permits to change crops and perform usual and customary ranch and farm activities.
- (i) Requiring special biological and ground water studies and expensive CCC permits to install irrigation pipes, or replace your old water well, or dig a new one, notwithstanding county requirements and permits already in place

This proposed LCP is designed to remove agriculture from West Marin, which Marin Board of Supervisors may reject rather than trading the old for a new which destroys agriculture, and forces 150 year old heritage farms to split up and disintegrate.

As Trustee of CRC, not on my watch. Any entity that would take CRC lands do so at their legal peril and will rue the day.

Ione Conlan

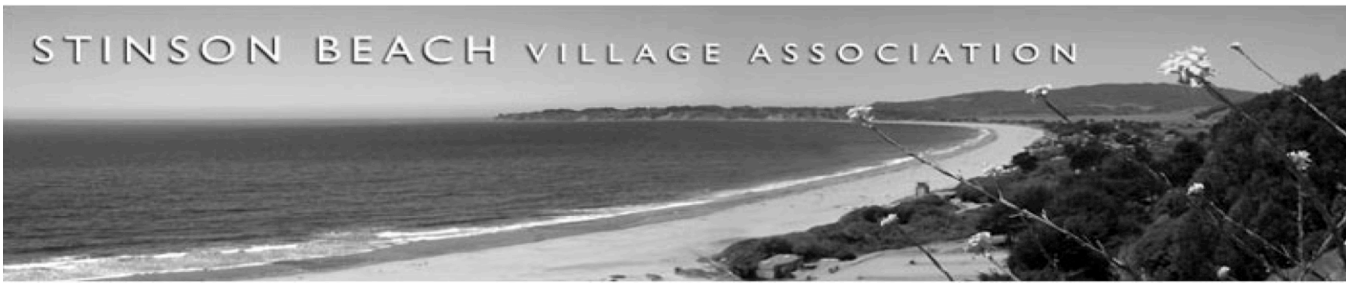
Conlan Ranches California

Marin T (707) 876-1992 & (831) 462-5974

PO Box 412 Valley Ford, CA 94972

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P.O. Box 706 • Stinson Beach • California • 94970
www.stinsonbeachvillage.org

December 4, 2016

Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903-4193 and
C/O: **MarinLCP@marincounty.org**

Dear Marin County Board of Supervisors,

Upon review of the California Coastal Commission's amendments to the Marin County Local Coastal Program's Land Use Plan and Implementing Program, adopted by the CCC on November 2, 2016, the Stinson Beach Village Association offers the following comments and recommendations for your consideration:

The LUP and IP regulations for Bed and Breakfast Inns employ critical terms at once undefined and inconsistent. (See Attachments #1 & #2) The LUP uses the word "householder" and the IP, "household," terms not included in Article VIII, 22.130, Definitions. These terms are broad enough to include non-property owners, such as lessees, thereby circumventing the intent of C-PK-6. We suggest substituting "homeowner" for both "householder" and "household" in the respective sections of the LUP and IP. This would conform to the intent of C-PK-6 and prevent a property owner from converting a residence into a small hotel by leasing it to an on-site manager for the purpose of operating a Bed and Breakfast Inn. Since Bed and Breakfasts are being designated in the LCP as Permitted Use in residential zones, it's vital that they function as intended: providing visitors with affordable accommodations and homeowners with supplemental income while mitigating disruptions to residential neighborhoods.

Regarding provisions concerning Easkoot Creek:

22.66.040 Stinson Beach Community Standards

D. Easkoot Creek. Easkoot Creek shall be restored, as feasible, to improve habitat and support natural processes (Land Use Plan Policy C-SB-4).

Page 132

C-SB-4 Easkoot Creek. Restore Easkoot Creek to improve habitat and support natural processes.

Page 85

The words "restored" and "restore" appear in the LUP and the IP, though the IP contains the undefined qualifier "as feasible." We urge that phrase be removed, as it negates the commandment "shall" in the IP, and its subjectivity invites controversy and may improperly allow interpretations that limit restoration, ex. restoring its original course, which ran into the ocean before Marin County diverted it to empty into the southern end of the Bolinas Lagoon, thereby creating the Easkoot Creek flood plane.

California Coastal Commission staff stated on page 99 of their cover letter to the proposed modifications to the LCPA considered at the CCC hearing on November 2, 2016:

In response to public comment regarding the need for community centers in residential zoning districts to be owned and operated by non-profits, the County-adopted proposed IP requires community centers to be designed to enhance public recreational access and visitor-serving opportunities. Thus, regardless of ownership, community centers will serve public recreational access purposes, consistent with Coastal Act Section 30222. (See attachment #3)

The Coastal Act Section 30222 does not empower the County to require that community centers be designed to enhance public recreational access and visitor-serving opportunities. Furthermore, as the name implies, we believe community centers should serve primarily the needs of the residents of the communities in which they are located, not visitors.

Thank you for your consideration,

A handwritten signature in black ink that reads "Terry M. Gordon". The signature is written in a cursive style with a large, stylized "T" and "G".

Terry M. Gordon, President
Stinson Beach Village Association

Attachments

Attachment #1: C-PK-6 Bed and Breakfast Inns.

Support bed and breakfast facilities in the Coastal Zone as a means of providing visitor accommodations, while minimizing their impacts on surrounding communities. Restrict the conversion of second units and affordable housing to bed and breakfast inns. In addition, support the location of bed and breakfast inns in areas that are easily and directly accessible from usual tourist travel routes and where there is adequate off-street parking for guests and where the problem of nearby residents being inconvenienced by noise and increased transient traffic is minimized. Bed and breakfast inns shall be permitted to host or provide facilities for gatherings, such as weddings, receptions, private parties, or retreats if located in the C-APZ, C-ARP or C-R-A and if such activities are otherwise LCP consistent. **Each bed and breakfast inn must be operated by a householder who is the sole proprietor of the enterprise and whose primary residence is on the premises where the inn accommodations are located.** [Emphasis added] *Page 125*

Attachment #2: 22.32.040 Bed and Breakfast Inns.

Bed and breakfast inns (B&Bs) are subject to the requirements of this Section. The intent of these provisions is to ensure that compatibility between the B&B and any adjoining zoning district or use is maintained or enhanced.

F. Occupancy by permanent resident required. All B&Bs shall have one household in permanent residence. *Page 18*

Attachment #3: Coastal Act Section 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

December 7, 201

Board of Supervisors,

West Marin Sonoma Coastal Advocates letter to the the California Coastal Commission dated October 31, 2016 clearly stated our opposition to the language in the revised version of the LCPA which is contradictory. On page 36 WECS are PROHIBITED in the Coastal zone, however on page 81 WECS are EXEMPT. West Marin Sonoma Coastal Advocates request that the inconsistencies be resolved in the final document.

Due to the lack of speaker time during the last CCC meeting in Half Moon Bay our representative was not able to fully address our position. We remain unalterably opposed to the installation of utility scale industrial wind turbines in Marin's Coastal Zone.

West Marin Sonoma Coastal Advocates

4. C-EN-4.a , 4.b We have previously submitted to the Planning Commission and the Board of Supervisors the maps of Marin showing the areas of various wind speeds prepared for the California Energy Commission by the wind energy companies. These maps clearly show that economically harvestable wind is not viable in Marin County. All references to wind projects should be deleted.

5. C-EN-5 Line 2 Add "solar" before energy production facilities. Delete the words "to avoid where possible, and minimize where avoidance is not possible"; under CEQA there are no exemptions or exceptions.

6. C-EN-6 Energy and Industrial Development are not exempt from CEQA as put forth in 22.32.180 WECS.

In the August 25, 2015, Resubmittal of Local Coastal Program-Land Use Plan Amendments (LUPA) and Implementing Programs (IPA), 22.32.180- WIND ENERGY CONVERSION SYSTEMS (WECS) (non-coastal)...concluded with the statement that "Wind Energy Conversion Systems (WECS) are not allowed in the Coastal Zone.

We applaud the exclusion of WECS from Marin's magnificent Coastal Zone, an international destination that hosts over 17 million visitors a year. West Marin Sonoma Coastal Advocates thanks you for your foresight.

*Respectfully,
West Marin Sonoma Coastal Advocates
October 25, 2016*

December 8, 2016

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

Re: Comments on the Marin County Local Coastal Program Amendment

Dear Supervisors,

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Restricted Public Participation

I am concerned Marin County is allowing the aforementioned agricultural modifications with limited or no coastal development permit requirements. Community participation to weigh in on proposed major agricultural developments is severely hindered by limited public noticing, short timeline for response, and outrageous fees.

- Under the Local Coastal Program Amendment, the fees to appeal Principally Permitted Use entitlements are between \$630 and \$1,250. These high fees prevent the widest opportunity for public participation around development projects that include 500 square foot retail facilities,

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Thank you for your careful consideration of my comments.

Sincerely,

Carolyn K Longstreet
Inverness

December 8, 2016

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

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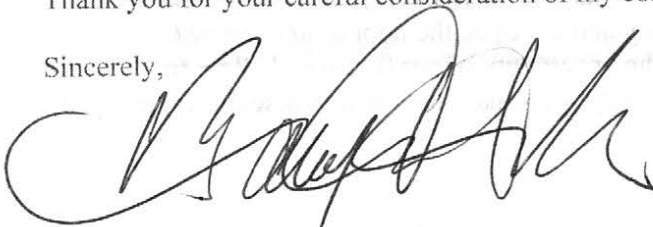
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Sincerely,



Barry Deutsch
PT. RECESSATION

December 8, 2016

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

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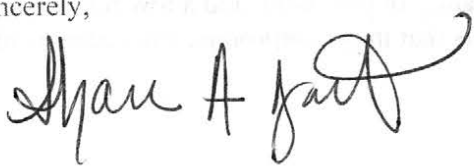
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Sincerely,



Sharon A. Barnett

San Rafael, CA

December 8, 2016

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

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Ellen Hamington

INVERNESS, CA

December 8, 2016

Marin County Board of Supervisors
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San Rafael, CA 94903

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Tomales

VICTORIA HANSON

December 8, 2016

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Thank you for your careful consideration of my comments.

Sincerely,

Barbara Gama
Inverness

December 8, 2016

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

Re: Comments on the Marin County Local Coastal Program Amendment

Dear Supervisors,

As a resident of Marin County, I have concerns with the Marin County Local Coastal Program Amendment before the Board of Supervisors ("Board") and provide the following comments regarding policy changes to agriculture, public participation, and environmental hazards.

Agriculture

Marin County has a robust history of protecting agricultural land and halting inappropriate development projects. Despite this legacy of protection, there are proposed policy changes in front of the Board, embedded within the Local Coastal Program Amendment, that may have unintended consequences for the environment and agriculture in Marin County.

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Christopher Lish
1004 Los Gatos Rd. Apt. D
San Rafael, CA 94903

December 8, 2016

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

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Steve Loring

Point Reyes Station

December 8, 2016

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

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Lara Lantry

21 Mesa Rd

Pt Reyes Station, CA 94956

December 8, 2016

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3501 Civic Center Drive
San Rafael, CA 94903

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JOSUA deWOLF

SAN ANSELMO, CA

December 8, 2016

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3501 Civic Center Drive
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Sincerely,



Sherry Baty
Inverness

December 7, 201

Board of Supervisors,

West Marin Sonoma Coastal Advocates letter to the the California Coastal Commission dated October 31, 2016 clearly stated our opposition to the language in the revised version of the LCPA which is contradictory. On page 36 WECS are PROHIBITED in the Coastal zone, however on page 81 WECS are EXEMPT. West Marin Sonoma Coastal Advocates request that the inconsistencies be resolved in the final document.

Due to the lack of speaker time during the last CCC meeting in Half Moon Bay our representative was not able to fully address our position. We remain unalterably opposed to the installation of utility scale industrial wind turbines in Marin's Coastal Zone.

West Marin Sonoma Coastal Advocates

4. C-EN-4.a , 4.b We have previously submitted to the Planning Commission and the Board of Supervisors the maps of Marin showing the areas of various wind speeds prepared for the California Energy Commission by the wind energy companies. These maps clearly show that economically harvestable wind is not viable in Marin County. All references to wind projects should be deleted.

5. C-EN-5 Line 2 Add "solar" before energy production facilities. Delete the words "to avoid where possible, and minimize where avoidance is not possible"; under CEQA there are no exemptions or exceptions.

6. C-EN-6 Energy and Industrial Development are not exempt from CEQA as put forth in 22.32.180 WECS.

In the August 25, 2015, Resubmittal of Local Coastal Program-Land Use Plan Amendments (LUPA) and Implementing Programs (IPA), 22.32.180- WIND ENERGY CONVERSION SYSTEMS (WECS) (non-coastal)...concluded with the statement that "Wind Energy Conversion Systems (WECS) are not allowed in the Coastal Zone.

We applaud the exclusion of WECS from Marin's magnificent Coastal Zone, an international destination that hosts over 17 million visitors a year. West Marin Sonoma Coastal Advocates thanks you for your foresight.

*Respectfully,
West Marin Sonoma Coastal Advocates
October 25, 2016*

California Coastal Commission
ITEM #: W11a

West Marin Sonoma Coastal Advocates letter dated December 7, 2016 reconfirmed our stated opposition to the language in the revised version of the LCPA relating to Wind Energy Conversion Systems (WECS) in Marin County's Coastal Zone.

Our position to the installation of WECS in the Coastal Zone remains the same. We are unalterably opposed to WECS installations in our Internationally recognized Coastal zone.

Our letter submitted on October 31, 2016 clearly states, in detail our opposition to Industrial Scale Wind Installations.

Respectfully,
West Marin Sonoma Coastal Advocates
March 8, 2017