



MARIN COUNTY  
 COMMUNITY DEVELOPMENT AGENCY  
 BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE PLANNING COMMISSION  
 LOCAL COASTAL PROGRAM AMENDMENT (LCPA)  
 AGRICULTURE**

Item No: 4  
 Workshop Date: October 10, 2011  
 Planners: Jack Liebster, Principal Planner  
 Kristin Drumm, AICP, Senior Planner  
 Christine Gimmler, AICP Senior Planner  
 Alisa Stevenson, Assistant Planner  
 Veronica Corella-Pearson, Planner  
 Steve Scholl, AICP, Consulting Planner

**RECOMMENDATION:**

1. Conduct public workshop;
2. Approve Agriculture Chapter and C-APZ, C-ARP sections of LCPA;
3. Provide direction to staff; and
4. Continue the Hearing to November 7, subject to the Board of Supervisors' approval of a modified Local Coastal Program schedule on October 11, 2011.

**SUMMARY RECOMMENDATION:** This report hearing will focus on the Agriculture Chapter of the June 2011 Public Review Draft (PRD) of the Land Use Plan Amendments (LCPA) and the following portions of the PRD Development Code Amendments.

- Chapter 22.32, Sections 22.32.021 through 22.32.028, and Section 22.32.062.
- Chapter 22.62, Section 22.62.060 and Tables 5-1-a through 5-1-e.
- Chapter 22.65, Sections 22.65.010 through 22.65.050.
- Chapter 22.130, Definitions as noted in Attachment 1.

The following is the tentative schedule for subsequent meetings, subject to approval by the Board of Supervisors.

November 7, 2011 (Special Meeting)	Carryover of Issues from the Framework, Socioeconomic, Built Environment, and Agriculture Hearings	10:00 AM - 5:00* PM
November 28, 2011	Natural Systems/Resource Management Standards	10:00 AM - 5:00* PM
January 9, 2012	Carryover of Issues from the Natural Systems/Resource Management Standards Hearing and Other Topics	10:00 AM - 5:00* PM

*\* Please note the proposed subject areas and times are estimates only and may be subject to change. Specific dates, topics, and times will be set for each continued hearing as revised and confirmed at each previous hearing.*

**BACKGROUND:** The June 2010 Public Review Draft (PRD) of Amendments to the certified Marin County Local Coastal Program (LCP) was developed through detailed staff analysis, shaped by more than two years of extensive public participation. Two formal public hearings on the PRD have been held before the Planning Commission (PC) providing valuable additional input that will change many of the proposed Amendments before they are presented to the Board of Supervisors.

This hearing concerns the Agriculture policies and their implementing measures, primarily the C-APZ and C-ARP zones (the C-RA zone is being addressed as part of the Built Environment discussion).

Some of the sections addressed in this report are also the subject of the non-LCP amendments to the Development Code that the Planning Commission has concurrently been considering. Staff will need to review results from this non-coastal process and recommend any necessary changes required by the Coastal Act at a future date.

The discussion of individual policy and Code amendments is presented in Attachment 1. The attachment generally follows the order of the LUP policies, and identifies various sections of the PRD Development Code Amendments that implement each policies.

**Concepts Continued.** Most concepts of current LCP are continued in the PRD LCP Amendments, including strict limitation of the non-agricultural development of lands suitable for agriculture, requiring minimum lot sizes, limiting subdivision, concentrating development within community boundaries, restricting urban-level public services from agricultural land, and promoting other means to protect agricultural land such as MALT, TDRs and continuing support for the Williamson Act.

Under the Coastal Act, the standard of review for the June 2011 Proposed Development Code Amendments is that they are consistent with and adequate to carry out the Land Use Plan Amendments that are being proposed, not that they conform to the existing Code. Nevertheless, most elements of the existing Code are being carried forward, even though they may be in a different format set by the structure of the non-coastal part of the Development Code. The Land Use Plan Amendments themselves were carried forward or adapted from the existing certified Land Use Plan through an extensive public process over more than two years. Attachment 2 compares the existing and proposed Land Use Plan policies.

**Programs Fulfilled.** As noted in the January Preliminary Draft of the LUP, many of the “Programs” contained in the draft LUP Amendments were included to give staff direction in preparing the corresponding Development Code implementing measures. The Commission should focus on these proposed Code amendments themselves, as presented in Attachment 1. Once the Development Code amendments called for in these particular Programs are reviewed and approved by the Planning Commission, the corresponding Programs will be deleted. Other longer term programs (for example Program C-EH-22a to respond to the impacts of Sea Level Rise) will be retained, and eventually integrated into CDA’s work program.

**RECOMMENDATION:** Staff recommends the workshop be conducted as follows:

- Staff presentation of proposed Agriculture policies and implementing measures.
- Public testimony: 3 minutes per individual, 6 minutes per organization).
- Close public testimony and conduct Commission deliberations.
- Tentatively approve proposed changes.
- Provide comments and direction to staff.

- Continue public hearing to November 7, subject to the Board of Supervisors' approval of a modified Local Coastal Program schedule on October 11, 2011.

**Attachments:**

1. **Attachment 1:** Overview of Agricultural policies and implementing measures.
2. **Attachment 2:** Comparison of Unit I Certified Policies to PRD.
3. **Attachment 3:** Comparison of Unit II Certified Policies to PRD.
4. **Attachment 4:** Summary of Agricultural Worker Housing Law.
5. **Attachment 5:** Guidelines for Agricultural Worker Housing Need.
6. **Attachment 6:** Summary of California Child Care Land Use Law.
7. **Attachment 7:** Summary of California Group Home Land Use Law.
8. **Attachment 8:** Coastal Act Agriculture Provisions.
9. **Attachment 9:** C-APZ Side-by-Side Comparison

## **Overview: LCP Public Review Draft (PRD) Agriculture Policies, Amendments, and Implementation**

### **Background**

Marin County's Coastal Zone provides exceptionally high quality grasslands that support beef cattle, dairy cows and sheep, and the milk, yogurt, and cheese they yield. Steep terrain, pervasive non-prime soils, and scarce water limit intensive row cropping, but a number of farms, many of them organic, raise fruits, vegetables, flowers, nuts and other crops.

Marin's coastal agriculture provides livelihoods, regional economic activity, and a local source of food for residents of the Bay Area and beyond. Every dollar of agricultural production is estimated to yield an additional \$2.50 to the local jobs, industries, and tourism. But the benefits are not only measured in dollars: Agricultural land use provides crucial ecosystem services including maintaining soil fertility, wildlife habitat and watersheds, and removing Greenhouse Gases from the air. Finally, the working agricultural landscape provides world-class views, a pastoral frame for Marin's distinctive coastal villages, and an extraordinary open space backdrop for the myriad of recreational activities offered throughout the Coastal Zone. For all these reasons, the proposed Local Coastal Program Amendment (LCPA) policies in the Public Review Draft (PRD) seek to preserve viable agriculture as a permanent part of the fabric of coastal Marin for the benefit of residents, visitors, and the environment itself.

The Coastal Act supports the continuation of agriculture on suitable lands in Sections 30241, 30241.5, and 30242. The conversion of prime agricultural land to residential or commercial development is strictly limited by the Act. But very little land in Marin's Coastal Zone is classified as prime. The Coastal Act mandates that all other lands suitable for agricultural not be converted to nonagricultural uses unless continued or renewed agricultural use is not feasible, or such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Such conversion must be compatible with continued agricultural use on surrounding lands.

Achieving these goals depends on interdependent resources: the land itself, and the people and systems that make it agriculturally productive. Marin is fortunate to have a strong community of hard-working, experienced, adaptable, and resourceful people committed to the future of agriculture. But some important trends point to the need to adjust certain LCP provisions to help assure that future.

In an era of corporate, industrialized agriculture, the great majority of Marin farms and ranches are family owned and operated, most with third or fourth generations working the land. Fluctuating commodity prices, the expense of investments needed to stay competitive, and the rising cost of farmland are only some of the challenges imperiling coastal agriculture. The aging of the active farming generation also casts a shadow across the long-term viability of agriculture. In 1997 the average age of Marin's principal agricultural operators was 55.7 years. By 2007 it had risen to 59.7. The family is still the foundation for maintaining agriculture in Marin. A 2003 UC Cooperative Extension survey found that more than 85% of Marin farms had between one and four family members involved in their operation, and 71% had a family member interested in continuing ranching or farming. Supporting both future and current agriculture is a fundamental objective of these proposed LCP Amendments. (e.g. Policy C-AG-5)

Other policies similarly provide for the essential elements that sustain agriculture. More than half of Marin's farms and ranches report hiring farm labor, but securing housing for those workers has been a challenge. Many agricultural activities, especially dairies, require workers close at hand. As with support

workers in the commercial and visitor-serving sectors, the lack of suitable housing leads to longer commutes with attendant traffic congestion, pollution and greenhouse gas emissions. The LCP recognizes that farmworker housing is an integral part of the principal permitted use of agriculture (Programs C-AG-2b and 2c).

Prices for commodities such as milk and beef are notoriously volatile, often placing Marin's relatively small producers in precarious positions. Just last year one of Marin's historic dairies had to go out of business. Marin agriculture has responded with innovation and creativity to secure its future. In replying to the 2003 UC Cooperative Extension survey, 29% of Marin operations report having added new production or enterprises to their farm or ranch in recent years, and 24% are making value-added products. Proposed LCP policies would help support such agricultural diversification, including making it easier for small-scale direct-to-consumer sales (Program C-AG-2e).

While strengthening the economic vitality and long-term protection of agriculture, LCP policies work equally hard to deter the incursion of non-agricultural uses that would convert agricultural land and erode agricultural production. The Agricultural Production Zone (C-APZ) would continue preserving agriculture by limiting the use of land to agriculture or uses that are accessory to, in support of, and compatible with agricultural uses. Additional LCP provisions protect the land itself, by limiting subdivision and non-agricultural uses, providing for long-term agricultural and stewardship plans, and by controlling the size of private residences. Together, the proposed amendments to LCP agricultural policies along with development code implementation measures achieve a balanced strategy to protect agricultural lands and continue the feasibility of agriculture throughout the Marin County Coastal Zone for generations into the future.

## Notes

The following abbreviations are used in this report:

**IPA:** *Public Review Draft, Proposed Development Code Amendments*, June 2011(also known as the "Implementation Program," or "IP."

**LUPA:** *Public Review Draft Land Use Plan Policy Amendments*, June 2011.

**LUP Unit I:** The existing coastal Land Use Plan for the **southern** part of Marin's Coastal Zone, as certified by the California Coastal Commission.

**LUP Unit II:** The existing coastal Land Use Plan for the **northern** part of Marin's Coastal Zone, as certified by the California Coastal Commission.

**Title 22I:** Interim Chapters 22.56I and 22.57I of the Development Code as certified by the Coastal Commission

Bolded and underlined Policy and Section numbers are used to identify the subject of each section; the text following is the staff discussion, not a quote from the Public Review Draft text. Quotes from the PRD are usually indented.

The report generally follows the order of the Land Use Plan Amendments, with references to the applicable section(s) of the proposed Development Code Amendments.

## A. Protect Agricultural Land Use

### Concepts Continued

LUP Unit I Agricultural Policies (Attachment 2) deferred the zoning of larger agricultural holdings to LUP Unit II, mandated the re-zoning of A-5 and A-10 districts to C-ARP-5 and C-ARP-10, which has been accomplished, and called for land division controls to be developed in the subsequent policies of Unit II.

Policy 1 (p. 98)<sup>1</sup> of the Unit II Agriculture chapter provided the general policy framework for protecting agricultural lands that is carried forward in PRD Policy **C-AG-1**, and implemented by **Section 22.62.060** of the Marin County Development Code (Dev Code). While a Planning Commission straw vote changed the beginning of the policy from “permanently protect” to simply “protect” to reduce redundancy, the concept of agriculture as a continuing rather than transitional use is maintained.

**C-AG-1 Agricultural Lands and Resources.** Protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County’s Coastal Zone. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.

(PC app. 01/24/11) *[Adapted from LUP Unit II Ag Policy 1, p. 98, and Marin Countywide Plan (CWP) Goal AG-1, p. 2-157]*

### **22.62.060 – Coastal Agricultural and Resource-Related Districts**

**A. Purpose of Section.** This Section provides regulations for development and new land uses proposed within the coastal agricultural and resource-related zoning districts established consistent with Local Coastal Program policies by Section 22.62.030 (Coastal Zoning Districts Established). The purpose of these zoning districts is to protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County’s Coastal Zone and to preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands,

### **New Concepts; Revised Staff Recommendation**

None.

## B. Agricultural Land Use Designations and Zoning Districts

### Concepts Continued

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<sup>1</sup> See also Attachments 2 and 3 for side-by-side comparison of existing Policies and proposed PRD Amendments.

**1. C-AG-2 Coastal Agricultural Production Zone Designation.** (*LUPA, p. 9*); **§22.62.060.B.1** (*IPA, p. 16*); **Table 5-1** (*IP, pp. 19-25*). Policy 2 of LUP Unit II (*p. 98*) applied the C-APZ to all privately owned agricultural lands in the Coastal Zone outside of LCP-designated community expansion boundaries that were at that time zoned A-60 or other agricultural zoning district, such as A-20. Agricultural lands zoned A-60 in the LUP Unit I area (the southern half of the Coastal Zone) were also included. In the provisions cited above, the PRD continues this policy, but amends the existing LCP language to remove references to proposed rezonings that have already taken place (see Attachment 2). The existing LUP policy is still worded as a proposal, as though the APZ has yet to be developed. The PRD corrects this without changing any parcel's certified zoning designation.

**2. C-AG-3 Coastal Agricultural Residential Planned Zone (C-ARP)** (*LUPA, p. 14*); **§22.62.060.B.2** (*IPA, p. 16*); **Table 5-1** (*IPA, pp. 19-25*). While the existing certified LCP Implementation Program (Title 22I of the Marin County Code) describes the C-ARP Coastal Agricultural Residential Planned Zone (*Title 22I, §22.57.020I*), there is no mention of this zone or corresponding land use designation in the certified LUP. Proposed amendments in PRD Policy C-AG-3 provide a clear use designation and policy basis for the C-ARP zoning district in the Land Use Plan, tracking closely to the certified language in Title 22I, thus continuing the concept.

**3. Program C-AG-3.a Protect Agriculture Use Where combined with Residential Use (C-ARP)** (*LUPA, p. 14*); **§22.62.060.B.2** (*IPA, p. 16*); **Table 5-1** (*IPA, pp. 19-25*). The concepts of the existing C-ARP zoning district are reflected in the proposed amendments to the Development Code, with "Principal Permitted," "Permitted" and "Conditional" uses established in Table 5-1.

**4. C-AG-4 C-R-A (Coastal, Residential, Agricultural) District** (*LUPA, p. 15*); **§22.62.060.B.1** (*IPA, p. 26*). This zoning district was addressed in the Built Environment hearing.

## **New Concepts**

**1. Land Use Maps for Agricultural Designations (C-CD-22, LUPA, p. 65).** The Marin County Community Development Agency (CDA) and California Coastal Commission staff (CCC) working together, have been unable to locate maps of the existing Land Use Plan designations, if any were in fact certified at all. Therefore, land use designations are proposed in the PRD Land Use Policy Maps (*Maps 18a – 18m*), adapted from the Marin Countywide Plan. Upon further review, and input from the CCC, staff recommends that the land use designations and descriptions proposed in PRD Policy C-CD-22 be reviewed to assure that they provide the proper basis for the existing agricultural zoning designations, which have so successfully implemented the LCP agricultural protections since the original LCP certification. Staff will provide revisions to PRD Policy C-CD-22 and the PRD Land Use Policy Maps, as necessary, prior to final action on the proposed LCP Amendments.

### **Revised Staff Recommendation**

Revisions to PRD Policy C-CD-22 and the PRD Land Use Policy Maps, as necessary, will be brought back to the Planning Commission.

**2. C-AG-2 Definition of Agriculture and "Farmhouse"; (C-APZ) (LUPA, p. 9); §22.62.060.B.1 (IPA, p. 16); §22.130.030 Agricultural Production (IPA, p. 93).** The certified LUP contains a definition of agricultural uses within Agriculture Policy 6 (*Unit II, p. 100; the certified and proposed policies are also shown side-by-side in Attachment 3*), and includes among permitted uses "one single-family dwelling" and "accessory structures or uses appurtenant and necessary to the operation of agricultural uses." The existing certified Section 22.57.032I specifies these as "Principal Permitted Uses." The CCC also subsequently certified an LCP amendment that added "bed and breakfast operations" to this list.

PRD Policy **C-AG-2**, as reflected in proposed implementing **Section 22.62.060.B.1** (*IPA, p. 16*), establishes a detailed list of activities that make up “Agriculture” as a use:

“... defined as uses of land for the breeding, raising, pasturing, and grazing of livestock, the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture, forestry crops, substantially similar uses of an equivalent nature and intensity, uses that are accessory and incidental to, in support of, and compatible with the property’s agricultural production, including one single-family dwelling per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural homestay facilities and bed and breakfast inns.”

(*LUPA, Policy C-AG-2, p. 9*)

The PRD recognizes that for agriculture to continue to be feasible as required by Coastal Act Section 30242, the essential elements that, as the certified LUP states (*p.100*), are “appurtenant and necessary” to the successful operation of agriculture should be explicitly included as part of Agriculture as a Principal Permitted Use. One single-family dwelling (SFD) per legal lot is already provided for in the certified LCP. The PRD adds a single intergenerational home, agricultural worker housing, limited sales and processing, and agricultural homestays as other elements of the principal permitted use of agriculture to support the economic and agricultural diversity required to sustain the economic feasibility of agricultural use (see summary side-by-side comparison, Attachment 9).

Finally, the definition of “**Agriculture**” itself (included in PRD Policy **C-AG-2** and **Section 22.62.060.B.1**) was inadvertently omitted from the Definitions (*IPA Section 22.130.030, pp. 91-156*), and is provided in the Revised Staff Recommendation section below.

“**Farmhouse**” to replace “**Agricultural Owner/Operator Single-Family Dwelling.**” Since the term “Owner/Operator Single-Family Dwelling” seems to raise some confusion with housing that may be allowed only as a conditional non-agricultural use (*CCC letter, p.9, para.3*) staff recommends the unwieldy phrase “Agricultural Owner/Operator Single-Family Dwelling” be replaced with simply “farmhouse” as recommended below. If adopted, staff would change all the relevant references, including those in the Land Use Tables and in **Section 22.32.025** (*IPA, p. 4*), which provides the standards for such land uses.

### **Revised Staff Recommendations**

**Definitions of Agriculture and Farmhouse, Section 22.130.030** (*IPA, p. 93*):

**Agriculture (coastal)** This land use consists of agricultural production, and the facilities that are accessory and incidental to, in support of, and compatible with the property’s agricultural production, including agricultural accessory structures, ~~one single family dwelling~~ **farmhouse** per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural homestay facilities and bed and breakfast inns.

**Farmhouse (coastal)** This land use consists of a Single Family Dwelling that is the residence of the owner or operator of the agriculturally zoned property upon which it is located. [*change throughout LCPA*]

**Technical Edit** (*LUPA, p. 9, last para.*) References in PRD Policy **C-AG-2** left over from the 1/24/11 LUPA Draft need to be corrected.



Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with the standards and criteria of Program C-AG-2.1.b-f and Policies C-AG-3.2 and 5.1-7,8 and 9.

As noted in the January Preliminary Draft of the LUP, many of the “Programs,” such as those cited below, were included to give staff direction in preparing the corresponding Development Code implementing measures. The Planning Commission’s review needs to focus on these proposed Code amendments themselves, as presented in the relevant parts of the Staff Report below. Once these proposed Development Code amendments are reviewed and approved by the Planning Commission, the corresponding Programs in the PRD Land Use Plan will be deleted from future versions of the LCPA. Other longer term programs (e.g. Program C-EH-22.a, drafted to respond to the impacts of Sea Level Rise) will be retained, and eventually integrated into the CDA work program.

**3. Program C-AG-2.a Allowed Uses: Use allowed by right. No permit required.** (*LUPA, p. 10*) The Coastal Commission comment letter (*p. 3*) points out that including this program in the certified LCP does not guarantee CCC approval of an amended exclusion order, which of course is true, and is so noted on page 4 of the PRD LUP Amendments. A Categorical Exclusion requires a separate action by the Coastal Commission and a demonstration by the County that any development under the Exclusion would not cause adverse environmental impacts. This is a high standard when considering classes of development rather than specific developments in specific locations and environmental conditions, and the burden of proof on the County could be heavy. If the Planning Commission and ultimately the Board endorse this effort, staff would propose to survey or otherwise consult with landowners in the agricultural area to determine the level of interest and potential cooperation for such an Exclusion effort.

Staff accepts the text suggested by the CCC for additional clarification as a revised staff recommendation.

#### **Revised Staff Recommendation**

Seek to clarify for the agricultural community those agricultural uses that are allowed by right and for which no permit is required. These include the Agricultural Exclusions from the existing Categorical Exclusion Orders. Clarify or add to these orders to specifically incorporate agricultural uses as defined in the Local Coastal Program, including commercial gardening, crop production, dairy operations, beekeeping, livestock operations (grazing), livestock operations (large animals), and livestock operations (small animals). \* Review aspects of agricultural operations that are not currently excluded from coastal permit requirements to determine if there are additional categories of agricultural developments that do not cause adverse environmental impacts and, hence, could be eligible additions to the categorical exclusion.\*\*

*\*(PC app. 01/24/11) [New program, not in Unit I or II] \*\* CCC 9/15/11*

**4. Program C-AG-2.b Develop Implementation Measures for the C-APZ.** This program was drafted to guide staff’s preparation of the PRD Development Code Amendments to implement the C-APZ zoning district. It is carried out as follows:

***C-AG-2.b.1 Definitions:*** See Definition of “Agriculture” from PRD Policy C-AG-2 above, to be added to Section 22.130.030 (*IPA, p. 93*), along with “Agricultural Production” and related definitions.

**C-AG-2.b.2, 3, and 4, Principal Permitted, Permitted and Conditional Uses:** See Section 22.62.060.B.1 (IPA, p. 16) and Table 5-1 (IPA, pp. 19-25).

With adoption of these implementing sections, the Program itself will be deleted from the final LCPA. The substantive discussion of the C-APZ appears in parts “C” and “D” below.

**5. Program C-AG-2.c Agricultural Worker Housing on Agricultural Lands.** Please see discussion of Allowed Use Tables 5-1-a and 5-2-a (IPA, pp. 19 and 28), and Land Use Standards for Agricultural Worker Housing, Section 22.32.028 (IPA, p. 7) addressed in part D below.

**6. Program C-AG-2.d Amnesty Program for Unpermitted and Legal Non-Conforming Agricultural Worker Units.** This Program is intended to support the establishment of an amnesty program for unpermitted and legal non-conforming agricultural worker units in order to increase the legal agricultural worker housing stock and guarantee the health and safety of such housing. The CCC comments (CCC letter, p. 5) in part that “...*If the units are unpermitted, then an amnesty program should be limited in that the must be consistent with local coastal program requirements (e.g., location and density requirements). Only requirements that do not have a coastal resource impact should be part of an amnesty program.*” Since this is a Program leading to a possible future LCP amendment, the Planning Commission should indicate whether staff should continue to pursue this idea.

**7. Program C-AG-2.e Establish Criteria for On-site Agricultural Sales and Processing.** Please see discussion of Allowed Use Table 5-1-a (IPA, p. 19) and Section 22.32.027 (IPA, p. 5) in Part D below.

**8. Program C-AG-2.f Facilitate Agricultural Tourism.** It appears some text may have been inadvertently omitted from this Program. Revised text is recommended below. The Program also calls for seeking to include farm tours, homestays and minor facilities in a Categorical Exclusion. This part of the Program could be combined with Program C-AG-2a above.

#### **Revised Staff Recommendation**

Review the agricultural policies and zoning provisions to identify and possibly modify or remove barriers to agricultural tourism and consider seeking to add farm tours, homestays and minor facilities to support them as a Categorical Exclusion.  
(PC app. 01/24/11) [New program, not in Unit I or II]

**PRD Policies C-AG-3** and **C-AG-4** have been addressed under “Continued Concepts” above.

## **C. Development Standards to Protect Agricultural Lands**

### **Concepts Continued**

Most concepts of certified LCP are continued in the proposed amendments of the PRD, including: strict limitation of the non-agricultural development of lands suitable for agriculture; requiring minimum parcel sizes; allowing subdivision only if continued agricultural use is not feasible, and only then if 95% of the land is permanently protected for agriculture; concentrating development within community boundaries; restricting urban-level public services from agricultural land; and promoting other means of preserving agricultural use such as MALT, TDR and continued support for the Williamson Act.

Within this context of continuity, several refinements of certified LCP are proposed in the PRD.

**1. C-AG-6 Non-Agricultural Development of Agricultural Lands.** (*LUPA, p. 16*) This policy, adapted from the CWP, summarizes the existing LCP approach to limiting non-agricultural use of agricultural lands to conditions where it would continue or renew agricultural use consistent with Coastal Act Section 30242. The Planned District General Development Standards in **Sections 22.65.030.D.1 and 22.65.030.E** (*IPA, p. 63*) carry this Policy out.

**Section 22.32.115** in Chapter 22.32 - *Standards for Specific Land Uses* (*IPA, p. 9*) is also intended to play a role in implementing this policy. However it is among those sections that the Planning Commission has concurrently been considering as part of the non-LCP amendments to the Development Code. Staff will need to review results from this process and recommend any necessary changes for the Coastal Zone at a future date.

**2. C-AG-7 Master Plan for Non-Agricultural Development in C-APZ.** (*LUPA, p. 16*); **§22.65.030.D.1** (*IPA, p. 62*); **§22.65.040.C. 2 and C.3** (*IPA, p. 65*); **§22.65.040.D** (*IPA, p. 66*).

PRD Policy C-AG-7 sets out the development standards and required conditions for non-agricultural development in the C-APZ, carrying forward Agricultural Policies 4 and 5 of the certified LUP (*Unit II, pp.98-99*). The proposed Development Code amendments carry forward the development standards of PRD Policy C-AG-7 in Section 22.65.040.D (*IPA, p. 66*); and the required conditions in Sections 22.65.030.D.1 (*IPA, p. 62*), and 22.65.040.C. 2 and C.3 (*IPA, p. 63*).

The standards and conditions in the proposed Development Code amendment are largely the same as in Policy C-AG-7, except that the term “Development Standards” is replaced with “Required Findings” in Section 22.65.040.D (*IPA, p. 66*). Also, the beginning of Policy C-AG-7 requires the “submittal of a Master Plan or other appropriate development applications...” In preparing amendments to the Development Code, staff has attempted to better integrate the requirements for Master Plans into the Coastal Permit process itself. Both these change are discuss under New Concepts below.

### **New Concepts**

**1. Substitute the Coastal Permit for the Master Plan.** As staff initially developed the administrative framework for the PRD, we continued to use the current concept of a separate Master Plan as the means to shape more complex development proposals. However, it soon became clear that the same standards, policies and analysis that go into a Master Plan can be applied to the Coastal Permit itself, with substantially more clarity, focus and effectiveness. In certain cases where developments are proposed in phases over time, the Coastal Permit may need to be adapted, and perhaps combined with the mechanism of a site-specific LCP Amendment, but for most projects in Marin’s Coastal Zone, the Coastal Permit itself is the best vehicle for carrying out the requirements of the LCP.

PRD Policy C-AG-7 therefore allowed “...submittal of a Master Plan or other appropriate development applications...” paving the way for the use of the Coastal Permit in this manner. In implementing that provision, Section 22.65.020.A.1 (*IPA, p. 61*) references a Coastal Permit rather than a Master Plan, and Sections 22.65.030 and 22.65.040 have been written accordingly.

## **D. Allowed Uses and Use Categories**

The allowed uses of the certified LCP are for the most part carried forward into the PRD. However, in an effort to be consistent with the format and organization of the countywide Development Code, these uses are recast into tables that permit finer distinctions among the kinds and intensities of uses in terms of whether they are categorized as “Principal Permitted,” “Permitted” or “Conditional” Uses. Equally important, by applying the precise definitions in Chapter 22.130, the general development standards of Chapters 22.64 and 22.65, and the detailed Standards for Specific Lands Uses from Chapter 22.32, the new format of the Development Code affords a substantially greater amount of specificity in addressing the inherent potential impacts and benefits of development, including individual components of each land use category. The Resource Management Standards in Chapter 22.64 complement these other chapters by stipulating what is required to avoid impacts to each particular coastal resource and to fit in compatibly with coastal conditions.

**Table 5-1, Allowed Uses and Permit Requirements for Coastal Agricultural & Resource-Related Districts**, begins on page 19 of the *PRD Proposed Development Code*. Rather than re-grouping all the individual components of a land use category into “Concepts Continued” and “New Concepts,” staff suggests it may be clearer to simply work through Table 5-1 from top to bottom, and refer to the notes on selected items below as those items come up.

**Coastal Commission staff comment on Table 5-1** (*IPA, pp. 19-25, Program C-AG-2.b (LUPA, p. 10) and §22.62.050 (IPA, p. 15)*). CCC staff have provided a comment on allowed uses in the C-APZ that reads in part.

“We continue to question the appropriateness of including some clearly non-agricultural uses within the C-APZ district; such as campgrounds, private residential recreational facilities, mineral resource extraction, and waste disposal sites. Areas not appropriate for agricultural production but appropriate for these other uses may need to be re-designated and rezoned. We would like to see some analysis of why these types of uses are appropriate in agriculturally zoned districts...”  
(*CCC letter, p. 3, last para.*)

The County’s Land Use and Zoning designations do not seek to establish separate designations for each individual aspect of land use, but rather allow complementary and compatible types of activities within a given district, utilizing strong regulations and performance measures in the Development and other County Codes to assure the harmonious co-existence of such activities. Moreover, the Coastal Commission itself has already certified this approach as consistent with the Coastal Act specifically in the C-APZ and C-ARP districts where the specific activities enumerated in the CCC staff letter are already certified as conditional uses. The PRD does not seek to materially change the status of most of these certified uses.

**1. Agricultural Homestays** with 3 or fewer guest rooms are part of the Agriculture Principal Permitted Use (PP). Homestays with up to 5 guest rooms are a Conditional Use (U). The text of footnote (10) of Table 5-1 that states “Only allowed when the primary use of the property is for agriculture...” was inadvertently omitted and should be added back. Strong standards are applied by Section **22.32.023** (*IPA, p. 2*) to assure that homestays are “...accessory and incidental to, in support of, and compatible with the property’s agricultural production.”

#### **Errata**

Add text of footnote: “(10) Only allowed when the primary use of the property is for agriculture.”

**2. Agricultural Intergenerational Homes.** The first qualifying intergenerational home is a Principal Permitted Use (PP), and the second one is a Conditional Use (U). Section **22.32.024** (*IPA, p. 3*)

establishes the limited criteria that would allow intergenerational homes to help preserve Marin's family farms and the agricultural lands they rely on.

The **allowed C-APZ Density** is a specific issue for Intergenerational and Agricultural Worker Housing as cited in Policies **C-AG-2** (*LUPA, p. 10*) and **C-AG-5** (*LUPA, p. 15*), **§22.62.060.B.1** (*IPA, p. 16*), and **Table 5** footnotes (*IPA, p. 19*). The Table 5 footnotes (for example Table 5-1-a) clarify that intergenerational homes and agricultural worker housing are not counted toward the "one house per legal lot" limit in the C-APZ (Staff's recommended additional change re "farmhouse" is shown):

- (8) Only one **single family dwelling farmhouse** per legal lot allowed (does not include intergenerational homes or agricultural worker housing). To create additional parcels and additional single-family homes, see also 22.86 (Subdivisions).

However, **Policy C-AG-5** (*LUPA, p. 16*) does specify that 60 acres of lot size is required for each of the potential two intergenerational homes:

"...An equivalent density of 60 acres per unit shall be required for each home, including any existing homes..."

This criterion was unfortunately left out of implementing Section 22.32.024, and should be corrected as follows:

**Errata: Section 22.32.024**

**C. Permit Requirements.** Agricultural intergenerational homes are allowable in the zoning districts and with the permit requirements determined by Article V (Coastal Zones—Permit Requirements and Development Standards). A density credit of 60 acres is required for each intergenerational home.

Thus, where the property already has one existing farmhouse, a minimum total of 120 acres is required for adding one intergenerational home, and a minimum total of 180 acres for adding two.

Program **C-AG-2.c** (*LUPA, p. 12*) deals with agricultural worker housing, by calling for amending the Development Code to comply with State Housing Law in order to provide worker housing consistent with State requirements and commensurate with local *need* as further discussed below.

CCC staff suggests (*CCC letter, p. 2*) that these provisions be re-written and consolidated to govern the creation of "new parcels." However, in Marin's Coastal Zone, where few if any C-APZ parcels have been subdivided in more than 30 years, the more immediate issue is the permitting of intergenerational homes and agricultural worker housing on existing parcels. Subdivision and non-agricultural development of agriculturally zoned lands is further evaluated below in section D, *Development Standards in Agricultural Districts*. Staff hopes to be able to work with CCC staff on clarifying these subjects prior to final County adoption of the proposed LCP Amendments in the PRD.

**3. Agricultural Owner/Operator Single-family dwelling.** This element of agricultural land use is changed in name only from that allowed as a PP Use in the existing certified LCP (Title 22I, §22.57.032I, *see below*), in order to distinguish the farm family home from other residential development. As noted above, staff suggests it be re-named "farmhouse."

**22.57.032I** Principal Permitted Uses. The following uses are permitted in all C-APZ districts subject to an approved master plan:

- ...
2. One single-family dwelling per parcel. Parcel is defined as all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code).

**4. Criteria for On-site Agricultural Sales and Processing: *Program C-AG-2.e (LUPA, p. 12);***

**Section 22.32.027 (IPA, p. 5).** Again, staff thanks the members of the agricultural and broader community who contributed in the round-table discussion to formulate policy language at the Red Barn in Point Reyes on May 7, 2010. Both Planning Commissioners Crecelius and Holland played a central role, with Commissioner Holland subsequently crafting the language of the policy and Development Code as it stands.

Small scale agricultural processing facilities up to 2500 sq. ft. and agricultural retail sales up to 250 sq. ft. that meet the detailed requirements of **§22.32.026** and **§22.32.027 (IPA, pp. 4-5)** are allowed as a PP Use. Larger facilities are conditional uses.

Extensive discussion of this policy has gone on with representatives of the East Shore Planning Group, who have also expressed their concerns at earlier hearings, calling the Planning Commission's attention to Section 22.32.027.D (IPA, p. 7), which states:

- D. Community-specific retail sales policies.** Policies should be developed in the LCP's Community Development section, as appropriate, to address the concerns of specific communities with respect to retail sales (roadside especially). As necessary, greater constraints on these activities could be specified for individual communities or roadway segments than the general provisions in the LCP's Agriculture section (up to and including, for example, the possibility of specifying an outright prohibition of roadside agricultural sales in a particular area or along a particular stretch of roadway).

At the September 19, 2011 Planning Commission (PC) Hearing, staff was able to clarify that even the smaller agricultural retail sales facilities that are proposed as part of the Agriculture Principal Permitted Use would still need to obtain a Coastal Permit (a discretionary approval) and to meet all the applicable standards of the LCP.

**Parking** The CCC staff also questions the standard provided in Section 22.32.027.A.5 (IPA, p. 6):

5. Sufficient off-street parking is provided.

They point out that if Muni Code §24.04.340(g) (General Retail) applies, then one space is required per 200 sq. ft. of gross floor area, noting (CCC letter, p. 5):

“...the 250 sq. ft. maximum size of farm stands would mean at most two spaces would be required. On the other hand, if sufficient room for parking exists on the roadway shoulder or on unpaved areas of the site, it would seem unnecessary to require formalized parking for farm stands. Perhaps, this provision can be revised to state that parking standards for retail sales may be adjusted for farm stands to ensure sufficient parking opportunities without requiring unnecessary paving or conflicts with other agricultural operations.”

A determination of parking needs that takes into account the specific conditions of each site would be appropriate. Staff seeks comment on this question from the Planning Commission and the public.

**5. Agricultural Worker Housing on Agricultural Lands, Program C-AG-2.c (LUPA, p. 12).**

Development Code Amendments called for by this program have been provided in the Allowed Use **Tables 5-1-a** and **5-2-a** (IPA, pp. 19 and 28), and in the Land Use Standards for Agricultural Worker Housing, Section **22.32.028** (IPA, p.7). These standards were based upon a thorough review of State Law applying to agricultural worker housing that was presented at the Jan. 24, 2011 Public Workshop (see Attachment. 3). In particular, the California Employee Housing Act (Health and Safety Code Section 17000 et seq.) requires that each County permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need, not the size of a parcel as suggested by the CCC staff (CCC letter, pp. 2-3). Need varies with the type of agriculture. For example, Marin County Agricultural Ombudsperson and range management consultant Lisa Bush summarizes agricultural worker needs, noting that beef cattle and sheep operations typically require fewer employees per head than dairy operations (see Attachment 4). Therefore Section **22.32.028.B.1** (IPA, p. 7) provides for a case-by-case analysis of agricultural worker housing needs. (With the development of the proposed LCP Amendment, the PRD Program itself will be deleted from future versions).

**6. Agricultural Tours, Policy C-AG-2.b (LUPA, p. 11)** provides for educational agricultural tours conducted by non-profits. These are defined in **§22.130.030** (IPA, p. 108) and specified in **§22.32.062** (IPA, p. 8). In discussions with representatives of the agricultural community, staff has come to recognize that the owner/operator of a farm or ranch should also be allowed to host their own agricultural tours, and recommends this change.

**Revised Staff Recommendation**

**§ 22.130 Definition**

**Educational Tours (land use).** Interactive excursion for groups and organizations for the purpose of informing them of the unique aspects of a property, including ~~but not limited to~~ agricultural operations and environmental resources.

**22.32.062 – Educational Tours (Coastal)**

**(Coastal) Limitations on use.** As defined in Section 22.130.030, educational tours are interactive excursions for groups and organizations for the purpose of informing them of the unique aspects of a property, including ~~but not limited to~~ agricultural operations and environmental resources. In the C-APZ and C-ARP zoning districts educational tours operated by non-profit organizations or the owner/operator of the agricultural operation are a principal permitted use; those operated for commercial profit require a Use Permit.

**7. Wind Energy Systems.** The discussion of these facilities was continued from the Built Environment hearing and will be discussed at the continued hearing.

**8. Bed and Breakfast Inns**

B&Bs are defined in Chapter **22.130** (IPA, p. 97) as follows:

**Bed and Breakfast Inns (land use).** This land use consists of providing up to five guest bedrooms for overnight lodging, where the use is clearly secondary and incidental to the use of the property as a single-family residence. County requirements applicable to Bed and Breakfast Inns are in Section 22.32.040 (Bed and Breakfast Inns), and applicable Health Department regulations. A Bed and Breakfast Inn with more than five guest rooms is considered a hotel or motel, and is not permitted in a

residential zoning district. Refer to the definition of "Room Rental" to distinguish between a Bed and Breakfast Inn and room rental in a "boarding house" situation.

Bed and Breakfast inns are currently a Principal Permitted Use under the certified LCP (**Title 22I §22.57.032I.4**), and County may wish to not propose any amendment that would change that.

## **9. Affordable Housing**

The definition and other aspects of affordable housing have been undergoing concurrent review as part of the non-coastal Development Code amendments. Consistent with the County's commitment to maximize opportunities for affordable housing, that use has been designated as a Permitted Use in the C-ARP and a Conditional Use in the C-APZ. In both cases, such housing would be subject to appeal to the Coastal Commission, as it is not a Principal Permitted Use.

## **10. Group homes and Residential Care Facilities,**

As detailed in Attachment 7, the Fair Housing Act limits the ability of a local jurisdiction to regulate group homes through zoning regulations. In order to comply with this law, the **Table 5-1-c** (*IPA*, p. 22) allows small group homes and residential care facilities (i.e. those which serve six or fewer persons) as a permitted use in all LCP zoning districts in which a dwelling is allowed, including C-APZ. Consistent with the distinctions in the law, **Table 5-1-c** calls for a Use Permit for large group homes and large residential care facilities (those serving seven or more persons).

## **11. Child Care facilities**

The California Child Day Care Act limits the ability of a local jurisdiction to regulate child care facilities through zoning regulations. In order to comply with this law, **Table 5-1-d** (*IPA*, p. 23) allows small family childcare homes (SFCH) as a permitted use in all LCP zoning districts in which a residential use is allowed, including C-APZ and C-ARP. Consistent with zoning policy in inland agricultural areas, **Table 5-1-d** makes large family childcare homes (LFCH) a conditional use. Because State Law with respect to LFCH apply to residentially "zoned" properties, as opposed to those provisions that apply to SFCH that refer to residential "uses", LFCH may be disallowed in agricultural districts. Finally, the County may disallow child care centers in agricultural zoning districts. Attachment 6 provides additional background on child care facilities.

# **E. Standards for Specific Uses in Agricultural Districts**

As noted above, the Planning Commission has been reviewing amendments to the countywide Development Code, including Chapter 22.32, *Standards for Specific Land Uses*, through a separate amendment process that has overlapped the preparation of the proposed LCP Amendments. Certain specific standards for the Coastal Zone were included in the LCP amendments (*see page 1 of IPA*) and were discussed above. Staff will be working to reconcile the Planning Commission's non-coastal specific standards with the requirements of the Coastal Act and the proposed LCP Amendments. In the meantime, staff is ready to discuss any of the standards with the Planning Commission.



## F. Other Issues

### Continued Concept

**C-AG-10 Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture** (*LUPA*, p. 19). The policy was adapted from LCP Unit II Agriculture Policy 7 (p. 101) and remains virtually unchanged.

<b>Unit I Agriculture</b>	
<b>Existing Policy</b>	<b>Proposed Policy</b>
<p><b><u>Policy 29, pg. 35</u></b>  Certification of the remaining large agricultural holdings within Unit I which are greater than 60 acres in size shall be deferred until consideration of the Unit II LCP in order to facilitate development and application of a coordinated and consistent approach to the protection of large agricultural holdings within the total Marin County Coastal Zone. These areas consist of the following Assessor's Parcel Numbers:</p> <p style="padding-left: 40px;">188-090-02, 04, 05, 06, 09, 10, 11  188-120-09, 11, 15, 19  188-170-01, 06, 18, 56, 57  199-150-20, 21</p> <p><b><u>Policy Status</u></b>  This policy is not carried forward because it is no longer relevant.</p>	<p>n/a</p>
<p><b><u>Policy 30, pg. 35</u></b>  In order to preserve the maximum amount of agricultural land, protect important upland grassland feeding areas and to promote the concentration of development in accordance with Section 30240 (a) and (b), 30241, 30242 and 30250 of the Coastal Act, the land now designated as A-5 and A-10 zoning districts shall be rezoned to APR-5 and APR-10 to encourage greater flexibility in the design of future land divisions within the area. New land divisions shall be designed to provide the maximum feasible clustering of new units and by easement or similar recorded instrument shall provide both the retention of the maximum amount of land in agricultural use and the protection of important upland feeding areas, which are identified on the resource maps on file in the Marin County Planning Department.</p> <p><b><u>Policy Status</u></b>  The concepts of this policy have been incorporated into <b>C-AG-1</b> Agricultural Lands and Resources and <b>C-AG-2</b> Coastal Agricultural Production Zone (C-APZ).</p>	<p><b>C-AG-1 Agricultural Lands and Resources.</b> Protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.  (PC app. 01/24/11)  <i>[Adapted from Unit II Ag Policy I, p. 98, and CWP Goal AG-1, p. 2-157]</i></p> <p style="text-align: center;"><b>Unit I Policy 30, pg. 35</b>  <del>C-AG-1 Agricultural Lands and Resources. In order to preserve the maximum amount of p</del>Protect agricultural land, <del>protect important upland grassland feeding areas</del> continued agricultural uses and the agricultural economy <del>and to promote the concentration of development in accordance with Section 30240 (a) and (b), 30241, 30242 and 30250 of the Coastal Act, the land now designated as A-5 and A-10 zoning districts shall be</del></p>

~~rezoned to APR 5 and APR 10 to encourage greater flexibility in the design of future land divisions within the area, by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone. New land divisions shall be designed to provide the maximum feasible clustering of new units and by easement or similar recorded instrument shall provide both the retention of the maximum amount of land in agricultural use and the protection-Preserve of important upland feeding areas, soils, agricultural water sources, and forage which are identified on the resource maps on file in the Maria County Planning Department. to allow continued agricultural production on agricultural lands.~~

**Unit II Agriculture Policy I, p. 98**

~~General policy. Marin County intends to protect the existing and future viability of agricultural lands in its coastal zone, in accordance with Sections 30241 and 30242 of the Coastal Act. The County's LCP policies are intended to permanently preserve productive agriculture and lands with the potential for agricultural use, foster agricultural development, and assure that non-agricultural development does not conflict with agricultural uses or is incompatible with the rural character of the County's coastal zone. These policies are also intended to concentrate development in suitable locations, ensure that adequate public services are available to serve new development, and protect coastal wildlife, habitat, and scenic resources, in accordance with Sections 30240, 20250, and 30251 of the Coastal Act.~~

**C-AG-2 Coastal Agricultural Production Zone (C-APZ).** Apply the Coastal Agricultural Production Zone (C-APZ) to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural productivity, that contain soils classified as Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, or that are currently zoned C-APZ. Ensure that the principal use of these lands is agricultural, and that any development shall be accessory and incidental to, in support of, and compatible with agricultural production.

For the purposes of the C-APZ, the principal permitted use shall be agriculture, defined as uses of land for the breeding, raising, pasturing, and grazing of livestock, the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture and forestry crops, substantially similar uses of an equivalent nature and intensity, uses that are accessory and incidental to, in support of, and compatible with the property's agricultural production, including one single-family dwelling per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural homestay facilities and bed and breakfast inns.

Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with the standards and criteria of Program C-AG-2.1.b and Policies C-AG-3.2 and -5.1.

Development shall not exceed a maximum density of 1 residential unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies below and, as applicable, other LCP policies are applied.

(PC app. 01/24/11)

*[Adapted from Unit II Agriculture Policies 2 and 3, p. 98 and CWP Program AG-1.g, p. 162]*

*[A ~~strike out~~ and underline version of the proposed policy and programs are not provided since the proposed policies are an adaptation of the concepts in the existing language and has been significantly rewritten]*

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<b>Unit II Agriculture</b>	
<b>Existing Policy</b>	<b>Proposed Policy</b>
<p><b><u>Policy 1 p. 98</u></b>  <u>General policy.</u> Marin County intends to protect the existing and future viability of agricultural lands in its coastal zone, in accordance with Sections 30241 and 30242 of the Coastal Act. The County's LCP policies are intended to permanently preserve productive agriculture and lands with the potential for agricultural use, foster agricultural development, and assure that non-agricultural development does not conflict with agricultural uses or is incompatible with the rural character of the County's coastal zone. These policies are also intended to concentrate development in suitable locations, ensure that adequate public services are available to serve new development, and protect coastal wildlife, habitat, and scenic resources, in accordance with Sections 30240, 20250, and 30251 of the Coastal Act.</p> <p><b><u>Policy Status</u></b>            The content of this policy has been carried forward to <b>C-AG-1</b> Agricultural Lands and Resources.</p>	<p><b>C-AG-1 Agricultural Lands and Resources.</b> Protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.            (PC app. 01/24/11)  <i>[Adapted from Unit II Ag Policy 1, p. 98, and CWP Goal AG-1, p. 2-157]</i></p> <p><b><u>Unit II Policy 1 p. 98</u></b>  <del>General policy.</del> <b>C-AG-1 Agricultural Lands and Resources.</b> <del>Marin County intends to p</del>Protect the existing and future viability of agricultural lands, <del>in its coastal zone, in accordance with Sections 30241 and 30242 of the Coastal Act. The County's LCP policies are intended to permanently preserve productive agriculture and lands with the potential for</del><u>continued agricultural uses; foster agricultural development, and assure that non-agricultural development does not conflict with agricultural uses or is and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's eCoastal zZone. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.</u> <del>These policies are also intended to concentrate development in suitable locations, ensure that adequate public services are available to serve new development, and protect coastal wildlife, habitat, and scenic resources, in accordance with Sections 30240, 20250, and 30251 of the Coastal Act.</del></p> <p><b><u>CWP Goal AG-1 p. 2-157</u></b>  <b>C-AG-1 Agricultural Lands and Resources.</b> <u>Preservation of Lands and Resources.</u> Protect agricultural land, by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.</p>

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**Policy 2 p. 98**

Agricultural Production Zone. To implement the goals stated in Policy #1 above, the County shall adopt a planned district zone for all privately owned lands in the Unit II coastal zone currently zoned A-60 or other agricultural zoning district, such as A-20, which are outside of the community expansion boundaries identified in the LCP. Agricultural lands in Unit I which are zoned A-60 shall also be included. The planned district zone shall be known as the Agricultural Production Zone (APZ) and shall have a maximum density of 1 unit per 60 acres. The actual density of permitted development may be less and shall be determined based on the standards in Policy #4 below. The County recognizes that parcel sizes of 60 acres are too small, generally, to independently support existing agricultural operations in the coastal zone. However, 60-acre densities, when combined with the protective standards in Policy #4, do on balance adequately protect agriculture on the coast. The APZ should be reviewed in 5 years to determine its effectiveness, and necessary changes considered at that time.

**Policy Status**

The content of this policy has been carried forward to **C-AG-2** Coastal Agricultural Production Zone (C-APZ).

**C-AG-2 Coastal Agricultural Production Zone (C-APZ).** Apply the Coastal Agricultural Production Zone (C-APZ) to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural productivity, that contain soils classified as Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, or that are currently zoned C-APZ. Ensure that the principal use of these lands is agricultural, and that any development shall be accessory and incidental to, in support of, and compatible with agricultural production.

For the purposes of the C-APZ, the principal permitted use shall be agriculture, defined as uses of land for the breeding, raising, pasturing, and grazing of livestock, the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture and forestry crops, substantially similar uses of an equivalent nature and intensity, uses that are accessory and incidental to, in support of, and compatible with the property's agricultural production, including one single-family dwelling per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural homestay facilities and bed and breakfast inns.

Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with the standards and criteria of Program C-AG-2.b and Policies C-AG-7 and CAG-9.

Development shall not exceed a maximum density of 1 unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies below, and, as applicable, other LCP policies are applied.

(PC app. 01/24/11)

*[Adapted from Unit II Agriculture Policies 2 and 3, p. 98 and CWP Program AG-1.g, p. 162]*

**Unit II Policy 2 p. 98**

Agricultural Production Zone. ~~To implement the goals stated in Policy #1 above, the County shall adopt a planned district zone for all privately owned agricultural lands in the Unit II coastal zone currently zoned A-60 or other agricultural zoning district, such as A-20, which are outside of the community~~ **C-AG-2 Coastal Agricultural Production Zone (C-APZ).** Apply the Coastal Agricultural Production Zone. (C-APZ) to preserve

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expansion boundaries identified in the LCP. Agricultural lands in Unit I which are zoned A-60 shall also be included, that are suitable for land-intensive or land-extensive agricultural productivity, that contain soils classified as Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, or that are currently zoned C-APZ. Ensure that the principal use of these lands is agricultural, and that any development shall be accessory and incidental to, in support of, and compatible with agricultural production.

For the purposes of the C-APZ, the principal permitted use shall be agriculture, defined as uses of land for the breeding, raising, pasturing, and grazing of livestock, the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture and forestry crops, substantially similar uses of an equivalent nature and intensity, uses that are accessory and incidental to, in support of, and compatible with the property's agricultural production, including one single-family dwelling per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural homestay facilities and bed and breakfast inns.

Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with the standards and criteria of Program C-AG-2.b and Policies C-AG-7 and CAG-9.

The planned district zone shall be known as the Agricultural Production Zone (APZ) and Development shall have shall not exceed a maximum density of 1 unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies below, and, as applicable, other LCP policies are applied. The actual density of permitted development may be less and shall be determined based on the standards in Policy #4 below. The County recognizes that parcel sizes of 60 acres are too small, generally, to independently support existing agricultural operations in the coastal zone. However, 60 acre densities, when combined with the protective standards in Policy #4, do on balance adequately protect agriculture on the coast. The APZ should be reviewed in 5 years to determine its effectiveness, and necessary changes considered at that time.

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**Policy 3 p. 98**

Intent of the Agricultural Production Zone. The intent of the Agricultural Production Zone is to preserve lands within the zone for agricultural use. The principal use of lands in, the APZ shall be agricultural. Development shall be accessory, incidental, or in support of agricultural land uses, and shall conform to the policies and standards in #4 and #5 below.

**Policy Status**

The content of this policy has been carried forward to **C-AG-2** Coastal Agricultural Production Zone (C-APZ).

See Policy 2 above for **C-AG-2 Coastal Agricultural Production Zone (C-APZ).**

**CWP AG-1.g, pg. 2-162**

~~Revise Agricultural Zoning Districts. Modify existing agricultural zoning districts to create a more uniform approach to preservation of agricultural lands, development standards, and allowance of ancillary and compatible non-agricultural uses, and to limit incompatible non-agricultural commercial uses. The principal use of agriculturally zoned land shall be agricultural production, with non-agricultural uses limited to necessary residential uses and compatible ancillary uses that enhance farm income.~~

~~Consolidate suitable agricultural lands in the Inland Rural Corridor into an effective agricultural zoning district similar to the Agricultural Production Zoning District, and create compatible zoning districts to accommodate lands currently zoned for, but not suited for, agriculture as a principal use.~~

~~Agricultural Production Zoning (APZ), or a similar zoning district, **C-AG-2 Coastal Agricultural Production Zone (C-APZ)**, shall ~~Apply the Coastal Agricultural Production Zone (C-APZ) to preserve privately owned agricultural lands in the Inland Rural Corridor that are suitable for land-intensive or land-extensive agricultural productivity, as well as on that contain soils classified as Prime Farmland or Farmland of Statewide Importance capable of supporting production agriculture. The purpose of this zoning district shall be to preserve lands within the zone for agricultural uses and support continued agricultural activities. Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, or that are currently zoned C-APZ. Ensure that t~~The principal use of these lands shall be agricultural, and any development shall be accessory, incidental ~~to, and~~ in support of agricultural production.~~

~~For the purposes of the C-APZ, the principal permitted use shall be agriculture, defined as uses of land for the breeding, raising, pasturing, and grazing of livestock, the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture and forestry crops, substantially similar uses of an equivalent nature and intensity, uses that are accessory and incidental to, in support of, and compatible with the property's agricultural production, including one single-family dwelling per legal lot, up to two intergenerational homes, agricultural worker housing, limited agricultural product sales and processing, non-profit agricultural tours, agricultural~~



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	<p><u>homestay facilities and bed and breakfast inns.</u></p> <p><u>Agricultural Residential Planned District Zoning (ARP) shall apply to lands adjacent to residential areas, and at the edges of Agricultural Production Zones in the Inland Rural and Coastal corridors that have potential for agricultural production. This district may also be applied to lands with historic or potential agricultural uses within the City Centered Corridor and in locations that function as community separators or greenbelts. This district is intended to protect agriculture but also allows residential and compatible commercial uses in areas that are transitional between residential and agricultural production uses.</u></p> <p><u>Residential Agricultural Zoning District (RAZ) shall apply in rural areas within the City Centered, Inland Rural, Coastal, and Baylands corridors to accommodate typical rural uses including small-scale row crop production, 4H projects and associated uses, along with residential uses and compatible commercial uses.</u></p> <p><u>Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with the standards and criteria of Program C-AG-2.b and Policies C-AG-7 and CAG-9.</u></p> <p><u>Development shall not exceed a maximum density of 1 unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies below, and, as applicable, other LCP policies are applied.</u></p> <p><u>Woodland Conservation Zoning District (WCZ) shall apply to selected lands currently in agricultural zoning districts that have a very dense native tree cover. Aerial photography shall be utilized to determine the extent of canopy cover characterizing properties to be included in this zoning district.</u></p>
<p><b>Policy 4 p. 98</b> <u>Development standards and requirements.</u> All land divisions and developments in the APZ shall require an approved master plan showing how the proposed division or development would affect the subject property. In reviewing a proposed master plan and determining the density of permitted units, the County shall make all of the following findings:</p> <p>a. The development would protect and enhance continued agricultural use</p>	<p><b>C-AG-7 Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.</b> Prior to approval of non-agricultural development, including a land division, in the Coastal Agricultural Production Zone, require submittal of a Master Plan or other appropriate development applications showing how the development would be consistent with the LCP. Approve a proposed Master Plan or development application and determine the density of permitted residential units only upon making all of the following findings and incorporating the conditions listed below. No Master Plan</p>

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<p>and contribute to agricultural viability.</p> <p>b. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.</p> <p>c. The land division or development would not conflict with the continuation of agriculture on that portion of the property which is not developed, on adjacent parcels, or those within one mile of the perimeter of the proposed development.</p> <p>d. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.</p> <p>e. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.</p> <p>f. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.</p> <p>g. Development consists of permitted and conditional uses as authorized in the APZ.</p> <p><b><u>Policy Status</u></b> The content of this policy has been carried forward to <b>C-AG-7</b> Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.</p>	<p>shall be required for:</p> <ol style="list-style-type: none"> <li>1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;</li> <li>2. Development that is Categorically Excluded;</li> <li>3. Up to two intergenerational homes; or</li> <li>4. A single-family dwelling on a parcel having no residual development potential for additional dwellings, other than agricultural worker housing.</li> </ol> <p><b><u>Development Standards:</u></b> All of the following development standards apply:</p> <ol style="list-style-type: none"> <li>1. The development will protect and enhance continued agricultural use, and contribute to agricultural viability.</li> <li>2. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.</li> <li>3. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.</li> <li>4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.</li> <li>5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.</li> <li>6. The proposed development will have no significant adverse impacts on environmental quality or natural habitats, consistent with LCP.</li> </ol> <p><b><u>Required Conditions:</u></b> 1. In order to retain the maximum amount of land in agricultural production</p>
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or available for future agricultural use, homes, roads, residential support facilities, and other non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, significant vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. Any new parcels created shall have building envelopes outside any designated scenic protection area.

2. The creation of a homeowner's or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.
3. Consistent with State and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and multiple residential projects, other than agricultural worker housing or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and are not further subdivided.

(PC app. 01/24/11)

*[Adapted from Unit II Ag Policies 4 and 5, p. 98-99]*

**Unit II Policy 4 p. 98**

~~Development standards and requirements.~~ **C-AG-7 Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.** ~~All land divisions and developments in the APZ shall require an~~ Prior to approved approval of non-agricultural development, including a land division, in the Coastal Agricultural Production Zone, require submittal of a Master Plan or other appropriate development applications showing how the proposed division or development would affect the subject property be consistent with the LCP. In reviewing Approve a proposed mMaster pPlan or development application and determining the density of permitted residential units, the County shall only upon making all of the following findings and incorporating the conditions listed below. No

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Master Plan shall be required for:

1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;
2. Development that is Catorgically Excluded;
3. Up to two intergenerational homes; or
4. A single-family dwelling on a parcel having no residual development potential for additional dwellings, other than agricultural worker housing.

Development Standards:

All of the following development standards apply:

- a.—1. The development will protect and enhance continued agricultural use, and contribute to agricultural viability.
- b.—2. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
- e.—3. The ~~land division or proposed~~ development will not conflict with the continuation or initiation of agricultural uses on that portion of the property ~~which that~~ is not proposed for development, on adjacent parcels, or ~~those on other agricultural parcels~~ within one mile of the perimeter of the proposed development.
- d.—4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.
- e.—5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.
- f.—6. The proposed ~~division and/or~~ development will have no significant

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adverse impacts on environmental quality or natural habitats, ~~including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.~~ consistent with LCP.

~~g. Development consists of permitted and conditional uses as authorized in the APZ.~~

Required Conditions:

1. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, roads, residential support facilities, and other non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, significant vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. Any new parcels created shall have building envelopes outside any designated scenic protection area.
2. The creation of a homeowner's or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.
3. Consistent with State and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and multiple residential projects, other than agricultural worker housing or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and are not further subdivided.

**Policy 5 p. 99**

Conditions. As part of the approval of a master plan, the following conditions shall be required:

**C-AG-7 Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.**

Prior to approval of non-agricultural development, including a land division, in the Coastal Agricultural

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- a. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development, including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/ or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.
- b. Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that they are retained as a single unit and are not further subdivided.
- c. The creation of a homeowner's or other organization and/or the submission of agricultural management plans may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of community roads or mutual water systems.

**Policy Status**

The content of this policy has been carried forward to **C-AG-7** Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.

Production Zone, require submittal of a Master Plan or other appropriate development applications showing how the development would be consistent with the LCP. Approve a proposed Master Plan or development application and determine the density of permitted residential units only upon making all of the following findings and incorporating the conditions listed below. No Master Plan shall be required for:

- 1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;
- 2. Development that is Categorically Excluded;
- 3. Up to two intergenerational homes; or
- 4. A single-family dwelling on a parcel having no residual development potential for additional dwellings, other than agricultural worker housing.

**Development Standards:**

All of the following development standards apply:

- 1. The development will protect and enhance continued agricultural use, and contribute to agricultural viability.
- 2. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
- 3. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.
- 4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.
- 5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.
- 6. The proposed development will have no significant adverse impacts on environmental quality or natural habitats, consistent with LCP.

**Required Conditions:**

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1. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, roads, and residential support facilities, and other non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, and or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, significant vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. Any new parcels created shall have building envelopes outside any designated scenic protection area.
2. The creation of a homeowner's or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.
3. Consistent with State and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and multiple residential projects, other than agricultural worker housing or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and are not further subdivided.

(PC app. 01/24/11)

*[Adapted from Unit II Ag Policies 4 and 5, p. 98-99]*

**Unit II Policy 5 p. 99**

**C-AG-7 Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands.** Prior to approval of non-agricultural development, including a land division, in the Coastal Agricultural Production Zone, require submittal of a Master Plan or other appropriate development applications showing how the development would be consistent with the LCP. Approve a proposed Master Plan or development application and determine the density of permitted residential units only upon making all of the following findings and incorporating the conditions

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listed below. No Master Plan shall be required for:

1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;
2. Development that is Categorical Excluded;
3. Up to two intergenerational homes; or
4. A single-family dwelling on a parcel having no residual development potential for additional dwellings, other than agricultural worker housing.

Development Standards:

All of the following development standards apply:

1. The development will protect and enhance continued agricultural use, and contribute to agricultural viability.
2. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
3. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.
4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.
5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.
6. The proposed development will have no significant adverse impacts on environmental quality or natural habitats, consistent with LCP.

Required Conditions: As part of the approval of a master plan, the following conditions shall be required:

- a.—1. All development shall be clustered. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, Development, including all land converted



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	<p><del>from agricultural use such as roads, and residential support facilities, and other non-agricultural development shall be clustered or placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production and/or open space. Proposed Development shall be located close to existing roads, and or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, significant vegetation, or significant natural visual qualities of the site. Proposed Development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. Any new parcels created shall have building envelopes outside any designated scenic protection area.</del></p> <p>b. <u>2. The creation of a homeowner's or other organization and/or the submission of <del>agricultural management plans</del> an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or <del>mutual</del> water systems.</u></p> <p>e. <u>3. Consistent with State and federal laws, a <del>P</del>permanent agricultural conservation easements over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and multiple residential projects, other than agricultural worker housing or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that <del>they are</del> each will be retained as a single unit and are not further subdivided.</u></p>
<p><b>Policy 6 p. 100</b> Definitions and uses. The definition of agricultural uses in the APZ is given below, along with permitted and conditional uses.</p> <p>a. <u>Definitions.</u> For the purposes of the Agricultural Production Zone, agricultural uses shall be defined as uses of land to grow and/or produce agricultural commodities for commercial purposes, including:</p> <ul style="list-style-type: none"> <li>• Livestock and poultry - cattle, sheep, poultry, goats, rabbits, horses unless they are the primary animals raised.</li> <li>• Livestock and poultry products - milk, wool, eggs.</li> </ul>	<p><b>Program C-AG-2.b Develop Implementation Measures for the C-APZ.</b> Amend the Development Code to incorporate the following provisions:</p> <p>Permitted Uses in the Agricultural Production Zone.</p> <p>1.. <b>Definitions.</b> For the purposes of the Coastal Agricultural Production Zone, define agricultural production consistent with Policy C-AG-2, and specifically including uses of land to raise animals used in farming or grow and/or produce agricultural commodities for commercial purposes, including the following and substantially similar uses of an equivalent nature and intensity:</p>

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<ul style="list-style-type: none"> <li>• Field, fruit, nut, and vegetable crops - hay grain, silage, pasture, fruits, nuts, and vegetables.</li> <li>• Nursery products - nursery crops, cut plants.</li> </ul> <p>b. <u>Permitted uses.</u> Permitted uses include the following:</p> <ul style="list-style-type: none"> <li>• Agricultural uses as defined above.</li> <li>• One single-family dwelling per parcel. "Parcel" is defined as all contiguous assessor's parcels under common ownership.</li> <li>• Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind, but including barns, fences, stables, corrals, coops and pens, and utility facilities.</li> </ul> <p>c. <u>Conditional uses.</u> Conditional uses include the following:</p> <ul style="list-style-type: none"> <li>• Land divisions.</li> <li>• Farmworker housing.</li> <li>• Mobile homes so long as they are used exclusively for employees of the owner who are actively and directly engaged in the agricultural use of the land.</li> <li>• Hog ranch.</li> <li>• Veterinary facilities.</li> <li>• Fish hatcheries and rearing ponds.</li> <li>• Stabling of more than five horses on ranches where horses are the primary or only animals raised.</li> <li>• Raising of other food and fiber producing animals not listed under (a) above.</li> <li>• Planting, raising, or harvesting of trees for timber, fuel, or Christmas tree production.</li> <li>• Facilities for processing or retail sale of agricultural products.</li> <li>• Greenhouses.</li> <li>• Commercial storage and sale of garden supply products.</li> <li>• Water conservation dams and ponds.</li> <li>• Mineral resource production.</li> <li>• Game or nature preserve or refuge.</li> <li>• Public or private recreational activities, such as hunting, fishing, and camping.</li> <li>• Bed and breakfast operations in existing structures up to a maximum of 5 rooms.</li> <li>• Construction, alteration, or maintenance of gas, electric, water, communication, or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies.</li> <li>• Dump.</li> </ul>	<ul style="list-style-type: none"> <li>a. Livestock and poultry - cattle, sheep, poultry, goats, rabbits, , and horses provided that horses are accessory and incidental to, in support of, and compatible with the property's agricultural production.</li> <li>b. Livestock and poultry products (such as milk, wool, eggs).</li> <li>c. Field, fruit, nut, and vegetable crops - hay grain, silage, pasture, fruits, nuts, seeds, and vegetables.</li> <li>d. Nursery products - nursery crops, cut plants.</li> <li>e. Aquaculture and mariculture</li> <li>f. Viticulture</li> <li>g. Vermiculture</li> <li>h. Forestry</li> <li>i. Commercial gardening</li> <li>j. Beekeeping</li> </ul> <p>2. <u>Principal Permitted uses.</u>  Limit Principal Permitted uses in the Coastal Agricultural Production Zone to the following:</p> <ul style="list-style-type: none"> <li>a. Agricultural production as defined in section "a" above;</li> <li>b. One single-family dwelling per legal lot consistent with the limitations on dwelling size contained in Policy C-AG-9.</li> <li>c. Agricultural accessory structures that contain no residential use, but including barns, fences, stables, corrals, coops and pens, and utility facilities.</li> <li>d. Agricultural activities that are accessory and incidental to, in support of and compatible with agricultural production;</li> <li>e. Processing of agricultural products grown principally in Marin County in a processing facility that does not exceed 2500 square feet;</li> <li>f. Retail sales of agricultural products grown principally in Marin County from a sales facility that does not exceed 250 square feet;</li> <li>g. Bed and breakfast inns or agricultural homestay facilities, with three or fewer guest rooms, appurtenant to and compatible with agriculture.</li> <li>h. Agricultural worker housing</li> <li>i. Agricultural tours conducted by non-profit organizations for educational purposes.</li> <li>j. Intergenerational housing - one additional unit as provided in Policy C-AG-5;</li> </ul> <p>3. <u>Permitted Uses</u></p> <ul style="list-style-type: none"> <li>a. Residential care facilities (six or fewer individuals)</li> <li>b. Group homes (six or fewer individuals);</li> <li>c. Small Family Day Care.</li> </ul> <p>4. <u>Conditional Uses.</u>  Limit conditional uses in the Agricultural Production Zone to the following:</p> <ul style="list-style-type: none"> <li>a. Land divisions;</li> </ul>
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**Policy Status**

The contents of this policy have been carried forward to Program **C-AG-2.b**  
Develop Implementation Measures for the C-APZ.

- b. Second intergenerational housing unit, as provided in Policy C-AG-5.
- c. Mobile homes so long as they are used exclusively for employees or family members of the owner who are actively and directly engaged in the agricultural use of the land;
- d. Hog ranches;
- e. Veterinary facilities;
- f. Fish hatcheries and rearing ponds;
- g. Stabling of more than five horses on ranches where horses are the primary or only animals raised;
- h. Raising of other food and fiber producing animals not listed under “1.a” above;
- i. Planting, raising, or harvesting of trees for timber, fuel, or Christmas tree production;
- j. Facilities for agricultural processing that exceed Use Permit waiver criteria;
- k. Sales of agricultural products that exceed Use Permit waiver criteria;
- l. Commercial storage and sale of garden supply products;
- m. Water conservation dams and ponds;
- n. Mineral resource extraction;
- o. Nature preserve
- p. Hunting and fishing clubs.
- q. Campgrounds;
- r. Private residential recreational facilities;
- s. Public parks and playgrounds;
- t. Equestrian facilities;
- u. Bed and breakfast operations with 4 or 5 rooms and agricultural homestays with 4-6 rooms;
- v. Construction, alteration, or maintenance of gas, electric, water, communication, or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies;
- w. Waste disposal sites;
- x. Water wells or septic systems to serve development on adjoining land;
- y. Residential care facilities (six or more individuals);
- z. Group homes (six or more individuals);
- aa. Large Family Day Care

(PC app. 01/24/11)

*[Adapted from Unit II Agriculture Policy 6, p. 100]*

**Unit II Policy 6 p. 100**

**Program C-AG-2.b Develop Implementation Measures for the C-APZ.**

Amend the Development Code to incorporate the following provisions:

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Permitted Uses in the Agricultural Production Zone.

**1. Definitions.**

For the purposes of the Coastal Agricultural Production Zone, define agricultural production consistent with Policy C-AG-2, and specifically including uses of land to raise animals used in farming or grow and/or produce agricultural commodities for commercial purposes, including the following and substantially similar uses of an equivalent nature and intensity:

- a. Livestock and poultry - cattle, sheep, poultry, goats, rabbits, and horses provided that horses are accessory and incidental to, in support of, and compatible with the property's agricultural production.
- b. Livestock and poultry products (such as milk, wool, eggs).
- c. Field, fruit, nut, and vegetable crops - hay grain, silage, pasture, fruits, nuts, seeds, and vegetables.
- d. Nursery products - nursery crops, cut plants.
- e. Aquaculture and mariculture
- f. Viticulture
- g. Vermiculture
- h. Forestry
- i. Commercial gardening
- j. Beekeeping

**2. Principal Permitted uses.**

Limit Principal Permitted uses in the Coastal Agricultural Production Zone to the following:

- a. Agricultural production as defined in section "a" above;
- b. One single-family dwelling per legal lot consistent with the limitations on dwelling size contained in Policy C-AG-9.
- c. Agricultural accessory structures that contain no residential use, but including barns, fences, stables, corrals, coops and pens, and utility facilities.
- d. Agricultural activities that are accessory and incidental to, in support of and compatible with agricultural production;
- e. Processing of agricultural products grown principally in Marin County in a processing facility that does not exceed 2500 square feet;
- f. Retail sales of agricultural products grown principally in Marin County from a sales facility that does not exceed 250 square feet;
- g. Bed and breakfast inns or agricultural homestay facilities, with three or fewer guest rooms, appurtenant to and compatible with agriculture.
- h. Agricultural worker housing

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- i. Agricultural tours conducted by non-profit organizations for educational purposes.
- j. Intergenerational housing - one additional unit as provided in Policy C-AG-5;
- 3. Permitted Uses**
  - a. Residential care facilities (six or fewer individuals)
  - b. Group homes (six or fewer individuals);
  - c. Small Family Day Care.
- 4. Conditional Uses.**

Limit conditional uses in the Agricultural Production Zone to the following:

  - a. Land divisions;
  - b. Second intergenerational housing unit, as provided in Policy C-AG-5.
  - c. Mobile homes so long as they are used exclusively for employees or family members of the owner who are actively and directly engaged in the agricultural use of the land;
  - d. Hog ranches;
  - e. Veterinary facilities;
  - f. Fish hatcheries and rearing ponds;
  - g. Stabling of more than five horses on ranches where horses are the primary or only animals raised;
  - h. Raising of other food and fiber producing animals not listed under “1.a” above;
  - i. Planting, raising, or harvesting of trees for timber, fuel, or Christmas tree production;
  - j. Facilities for agricultural processing that exceed Use Permit waiver criteria;
  - k. Sales of agricultural products that exceed Use Permit waiver criteria;
  - l. Commercial storage and sale of garden supply products;
  - m. Water conservation dams and ponds;
  - n. Mineral resource extraction;
  - o. Nature preserve
  - p. Hunting and fishing clubs.
  - q. Campgrounds;
  - r. Private residential recreational facilities;
  - s. Public parks and playgrounds;
  - t. Equestrian facilities;
  - u. Bed and breakfast operations with 4 or 5 rooms and agricultural homestays with 4-6 rooms;
  - v. Construction, alteration, or maintenance of gas, electric, water,

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	<p>communication, or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies;</p> <p>w. <u>Waste disposal sites;</u></p> <p>x. <u>Water wells or septic systems to serve development on adjoining land;</u></p> <p>y. <u>Residential care facilities (six or more individuals);</u></p> <p>z. <u>Group homes (six or more individuals);</u></p> <p>aa. <u>Large Family Day Care</u></p>
<p><b><u>Policy 7 p. 101</u></b> Alternative methods of preserving agricultural lands. The County strongly supports the objectives of the Marin Agricultural Land Trust to protect agricultural lands through the transfer, purchase, or donation of development rights or conservation easements on agricultural lands. The County supports and encourages action by the Trust in the coastal zone to preserve agricultural land for productive uses. The County also supports the use of Transfer of Development Rights (TDR) and similar innovative techniques to permanently preserve agricultural lands.</p> <p><b><u>Policy Status</u></b> The contents of this policy have been carried forward to <b>C-AG-10</b> Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture.</p>	<p><b>C-AG-10 Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture.</b> Support the objectives of the Marin Agricultural Land Trust (MALT) to protect agricultural lands through the transfer, purchase, or donation of development rights or agricultural conservation easements on agricultural lands. Support and encourage action by MALT in the Coastal Zone to preserve agricultural land for productive uses. Support the use of County’s adopted model agricultural easement, implementation of Transfer of Development Rights (TDR) programs and similar innovative techniques to permanently preserve agricultural lands. (PC app. 01/24/11) <i>[Adapted from Unit II Agriculture Policy 7, p. 101]</i></p> <p><b><u>Unit II Policy 7 p. 101</u></b> <del>Alternative methods of preserving agricultural lands. <b>C-AG-10 Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture.</b> The County strongly sSupports the objectives of the Marin Agricultural Land Trust (MALT) to protect agricultural lands through the transfer, purchase, or donation of development rights or <u>agricultural</u> conservation easements on agricultural lands. The County sSupports and encourages action by the Trust MALT in the eCoastal zZone to preserve agricultural land for productive uses. The County also sSupports the use of County’s adopted model agricultural easement, implementation of Transfer of Development Rights (TDR) programs and similar innovative techniques to permanently preserve agricultural lands.</del></p>
<p><b><u>Policy 8 p. 101</u></b> <u>Agriculture on state parklands.</u> State parklands with the potential for agricultural use should be made available for such use, especially during the interim period before the parks are opened for public use. Once opened, the parks should retain agricultural uses unless public recreation or natural resources on the site would be adversely affected. If conflicts between agriculture and public uses occur, they should be resolved in such a way as to protect resources and public safety while</p>	<p>n/a</p>

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still allowing the continuation of the agricultural operation. Agricultural leases with private operators should be reviewed five years prior to expiration for compatibility with park goals. Operators should be notified at that time whether or not their leases will be renewed and what revisions in operating arrangements, if any, are necessary.

**Policy Status**

This policy is not carried forward as the language is no applicable.

## AGRICULTURAL WORKER HOUSING IN MARIN COUNTY

### **I. SUMMARY**

The Employee Housing Act requires a local jurisdiction to treat agricultural worker housing as an agricultural use. In order to comply with this law, the Land Use Plan (LUP) and its Implementation Plan (IP) should allow agricultural worker housing for 1-4 employees as a permitted use in all agricultural zoning districts. It is also recommended that the LUP and IP treat agricultural worker housing for up to 12 units or 36 beds as a permitted use in agricultural zoning districts.

### **II. BACKGROUND**

The Planning Commission substantively reviewed the issue of agricultural worker housing in three different workshops in 2009 and 2010 and requested staff to come back with a new policy recommendation after it clarified the Marin County Housing Element policies and state law on agricultural worker housing with the California Department of Housing and Community Development (HCD).

Agricultural worker housing is difficult to measure- either the current supply or the future need. Recent studies have attempted to measure the number of agricultural workers in Marin. While these studies may be helpful in that the majority of agricultural land in Marin is in the coastal zone, agricultural workers are historically undercounted. Thus, the numbers of farmworkers in the coastal zone is likely higher than these estimates. A USDA Census in 2002 identified 491 agricultural workers in the County. The 2007 County profile published by the California Employment Development Department (EDD) estimated 600 agricultural workers. In a 2007 study, the U.S. Department of Labor Employment and Training Administration estimated between 800 and 1,000 agricultural workers in the County. The 2009 Draft Housing Element notes that unlike some of the major agricultural production regions in the State, “much of the County’s agricultural production primarily requires a year-round, permanent workforce.” These factors indicate that the housing needs of agricultural workers are best met through the provision of permanent single- and multi-family affordable housing.

### **III. ANALYSIS**

Currently, neither the Land Use Plan (LUP) nor the Interim Zoning Ordinance provides specific limits on agricultural worker housing. Both are silent on how agricultural worker housing units figure in the calculation of density in the C-APZ with regard to the “one single-family residence per parcel” requirement of LCP Unit II Agricultural Policy 6.b or Interim Zoning Code (Title 22I) §22.57.032I.2 which states that the C-APZ district shall have a “maximum density of one unit per sixty acres.” (Title 22I sec. 22.57.034I)

The Marin County Development Code does address “agricultural worker housing”. The Development Code provisions pertaining to agricultural worker housing were developed in 2003. However, the Employee Housing Act has been amended in substantive ways since then (SB 1777 in 2004 and SB 1802 in 2006). Staff will seek to amend the development code to reflect these new provisions in state law (detailed in Section IV below). Furthermore, while the Code refers to certain “C” Districts, these provisions would not go into effect until certified by the Coastal Commission.

The Current Marin County Code states that agricultural worker housing providing accommodations for 12 or fewer employees shall be considered a principally-permitted agricultural land use in the



following zoning districts: A2, A3 to A60, ARP, C-ARP, C-APZ, O-A, and C-OA. (MCC §22.32.023). Marin County Code Section 22.32.023(B) (1) places stringent limits on density:

...the maximum density shall not exceed that allowed in the underlying zoning district which governs the site. Agricultural worker housing that exceeds the maximum density may be allowed only in A2, A3 to A60, ARP, and C-ARP zoning districts subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).

However, the Development Code computes agricultural worker housing density in a unique way, counting each agricultural housing structure that provides accommodations for six or fewer employees as “one dwelling unit” but omitting accommodations for 7 to 12 employees from density calculations. (See MCC Section 22.32.023(B)(1)). The density equivalent for agricultural worker housing that provides for more than 12 workers is determined to be equal to the number of kitchens provided.

The California Employee Housing Act (Health and Safety Code Section 17000 *et seq.*), outlined below, requires the County to make substantive changes to the development code regarding Agricultural worker Housing. For example, agricultural worker housing is currently treated as a residential use, and is included in certain density calculations. As outlined below, State law considers farmworker housing (for 5 or more employees) an agricultural use.

#### **IV. DRAFT MARIN COUNTY HOUSING ELEMENT**

The Marin County 2009 Draft Housing Element update encourages Agricultural worker Housing in several ways. These Housing Element policies may or may not be reflected in the current draft LUP for the Coastal Zone.

For example, Housing Element Policy 2.l, as reviewed by the Planning Commission, would encourage the development of agricultural worker units in agricultural zones by 1) establishing ministerial review of applications for agricultural worker units and 2) revising the C-APZ zoning district to allow agricultural worker housing as a permitted use . . . “demonstrating consistency with California Health and Safety Code Section 17021.6.” Consistent with these provisions, the Planning Commission approved LCP Policy C-HS-1.7 in the Housing section of the draft LUP indicating support for “policy changes that promote the development of agricultural worker units in agricultural zones.” The related *LCP Implementing Program C-HS-1.b* calls for establishing “ministerial review of applications for agricultural worker units in order to expedite the permitting process and facilitate the development of legal agricultural worker units.” Option 1, discussed below, would be consistent with these objectives.

Housing Element Policy 2.k supports the establishment of an amnesty program for unpermitted and legal non-conforming agricultural worker units in order to increase the legal agricultural worker housing stock and guarantee the health and safety of agricultural worker units. The Housing Element encourages providing amnesty for the rehabilitation or replacement of 30 agricultural worker units. The amnesty program would receive funding primarily from the Marin Community Foundation, which has dedicated one million dollars of their strategic affordable housing initiative to specifically serve farm workers. In addition, the County could also fund an amnesty program through the use of Housing Trust funds and seek State funding such as Joe Sterna or federal USDA funding. (See Marin County Draft Housing Element (2009) p. V-9). This policy is not yet reflected in the Draft LUP. However, the Board of Supervisors has requested that provisions of the amnesty program be incorporated into the Development Code.

#### IV. STATE LAW:

The California Employee Housing Act (Health and Safety Code Section 17000 et seq.) requires that each County permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. The Act provides that farmworker employee housing is defined as housing for 5 or more farmworkers and their families. (*See* Health & Safety Code §17008). Therefore, agricultural worker housing of 1-4 farmworkers and their families is not covered by this state mandate.<sup>1</sup> Health & Safety Code section 17021.6(b) specifies that farmworker housing consisting of no more than 36 beds in group living quarters or 12 units or spaces for farmworkers and their households” shall be deemed an agricultural land use...[and] for the purpose of all local ordinances, employee housing shall not be deemed a use that...differs in any other way from an agricultural use.”. Furthermore, section 17021.6 states that “no conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone.” A Coastal Permit does not amount to a conditional use permit, zoning variance or other zoning clearance.<sup>2</sup>

Health and Safety Code § 17010 defines employee housing to include a variety of types of housing:

1. Temporary employee housing -labor camp<sup>3</sup> not operated on the same site annually.
2. Seasonal employee housing -operated annually on same site no more than 180 days per calendar year.
3. Permanent employee housing-any labor camp which is not temporary or seasonal.
4. Permanent single-family employee housing-occupied by only one family and at least one permanent year-round employee (includes single family detached dwellings, mobilehomes, manufactured homes, factory-built housing, constructed and maintained in accordance with applicable state or federal laws.

Finally, agricultural employees who do not work on the property where the employee housing is located are permitted to occupy such housing.

All construction permits to build or install employee housing are still issued through the local building department. However, building standards published in the State Building Standards code relating to employee housing supersede any local requirements that cover the same thing. *See* Health & Safety Code §17020. A Coastal Permit may still be required for the construction or installation of Agricultural worker Housing pursuant to the Employee Housing Act because it is not considered a conditional use permit or zoning variance.

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<sup>1</sup> See H&S Code section 17008(a) "Employee housing," as used in this part, means any portion of any housing accommodation... if all of the following factors exist: (1) The accommodations consist of any living quarters . . . for five or more employees.” *See also* California Department of Housing and Community Development, Application and Scope of the Employee Housing Act <http://www.hcd.ca.gov/codes/eh/ehappscope.htm>

<sup>2</sup>Email communication from Brad Harward, Program Manager at CA Housing and Community Development, 10/26/2010.

<sup>3</sup> For the purpose of the Employee Housing Act, “employee housing” means the same as “labor camp” as defined in §610 of Title 25, CA Code of Regulations.

## V. STAFF RECOMMENDATIONS FOR LUP LANGUAGE

### **DRAFT IMPLEMENTING PROGRAM C-AG-2.1.c: Agricultural Worker Housing on Agricultural Lands**

Consistent with state housing law and LUP Policy C-HS-1.7, permit and encourage the development and use of sufficient numbers and types of employee housing facilities in agricultural zones as are commensurate with local need. Amend the Development Code to provide that agricultural worker housing consisting of no more than 36 beds in group living quarters or 12 units or spaces for farmworkers and their households not be counted in the calculation of residential density in the C-APZ zone on the condition that annual validation of employment through the County and/or California Department of Housing and Community Development (HCD) is secured.

### **DRAFT LUP PROGRAM: C-AG- 2.1.d- Amnesty Program for Unpermitted and Legal Non-Conforming Agricultural Worker Units**

Support the establishment of an amnesty program for unpermitted and legal non-conforming agricultural worker units in order to increase the legal agricultural worker housing stock and guarantee the health and safety of agricultural worker units. A specific period of time will be allowed for owners of illegal units to register their units and make them legal without incurring fines, along with assurances of the long-term use by agricultural workers and their families.

## VI. STAFF RECOMMENDATIONS FOR IMPLEMENTATION PLAN LANGUAGE

Agricultural worker housing meeting the requirements of Health and Safety Code §17008 for the classification of “employee housing” may be treated consistent with state law in a few different ways described in Option 1 and 2 below. Staff recommends Option 1 in order to comply most fully with the draft Housing Element and the intent of state law.

### **A. OPTION 1:**

#### **Housing of up to four agricultural employees:**

Option 1 makes housing of up to four employees and their families a Principally Permitted Use, consistent with the intent of the Housing Element and provides that each unit is not counted for purposes of computing residential density in the C-APZ and C-ARP. This option is important to agricultural operations in Marin as the majority of housing is for 1-4 agricultural workers. Another option would be to include making housing for up to four agricultural employees an Accessory use of Agriculture (*see* MCC §22.57.032I(3)). This option requires a technical amendment to the development code (MCC §22.32.023(B)) related to the computation of density.

#### **Agricultural worker Housing consistent with the requirements of the Employee Housing Act:**

Option 1 makes employee housing for 5-36 employees in group quarters or up to 12 units for use by a single family or household a Permitted use. The Employee Housing Act treats housing for 5 or more employees, but not exceeding 36 beds or 12 units, as an agricultural use. The Act prohibits a local jurisdiction from requiring an applicant to receive a “conditional use permit, zoning variance, or other zoning clearance” in order to establish employee housing. Thus, while the LCP and a Coastal Permit can regulate such issues as the location and potential resource impacts of such housing, the use itself should be listed as a permitted agricultural use. As an agricultural use, agricultural worker housing is excluded under both Option 1 and 2 from the computation of residential density.

## **B. OPTION 2:**

### **Housing of up to four agricultural employees:**

Option 2 provides the County with the most discretion over applications for agricultural worker housing. It is consistent with state law, but not necessarily consistent with the goals of the 2009 Draft Housing Element, the draft agricultural worker housing policies in the Housing section of the draft LUP, or the Development Code (MCC §22.32.023). Agricultural worker housing providing accommodations for 1-4 agricultural employees and their families is defined as “employee housing” pursuant to the Employee Housing Act. Therefore, agricultural worker housing for up to 4 employees and their families in the C-APZ, C-ARP and C-RA may be subject to a Conditional Use Permit. Furthermore, the County may require 1-4 agricultural employees to work on-site.

### **Agricultural worker Housing meeting the requirements of the Employee Housing Act:**

Option 2 permits agricultural worker housing quarters for five or more agricultural employees up to 36 beds or up to 12 units or spaces designed for use by a single family or household subject to a Use Permit. Health and Safety Code section 17021.6 requires only that “no conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is *not required of any other agricultural activity in the same zone.*” The draft LUP requires conditional use permits for specified agricultural uses including but not limited to greenhouses, specified agricultural processing and retail facilities and certain forestry activities. Thus, the County may require a CUP of an agricultural use like large scale agricultural worker housing.

## **C. OTHER**

### **Annual Validation:**

Both Option 1 and Option 2 would require annual validation of employment through the Community Development Agency and/or California Department of Housing and Community Development (HCD). However, Sections 17030.5 and 17031 of the Health and Safety Code provide that the HCD may issue a permit to operate employee housing consisting of only permanent single-family housing for up to five years, or exempt properly maintained permanent housing on a dairy farm<sup>4</sup> from the annual permitting requirements all together. Therefore, the Planning Commission may decide to require validation of employment through the County each year.

### **Covenant or deed restriction:**

The County may wish to consider requiring a deed restriction or restrictive covenant, stating that the agricultural worker housing will continuously be maintained as such.

### **Definition of “Unit”:**

The current development code defines “agricultural worker housing” as “[a]ny attached and detached dwelling unit used to house agricultural workers and their family members, including temporary mobile homes.” In addition, it states that “for the purposes of calculating density, no more than one food preparation area shall be provided for each agricultural worker housing unit.” (Marin County Code 22.130.030.) Thus, a definition of “unit” could be based on the number of kitchens found in the housing. Napa County simply states that a unit is designed for use by a single-family. (see Napa County Code sections 18.16.020(L) & 18.20.020(R))

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<sup>4</sup> CA Food & Agricultural Code §32505 defines "Dairy farm" as “any place or premises upon which milk is produced for sale or other distribution and where more than two cows or water buffalo, or six goats, sheep, or other hooved mammals, are in lactation.”

	<b>Option 1</b>	<b>Option 2</b>
<b>1-4 Agricultural employees-(C-APZ &amp; C-ARP)</b>	<ul style="list-style-type: none"> <li>▪ Each structure, housing up to 4 employees and their families, is a <u>Principally Permitted Use</u></li> <li>▪ Each unit does not count towards density</li> <li>▪ Subject to annual verification of employment through County</li> <li>▪ Considered an agricultural use</li> <li>▪ Not required to be employed on-site</li> </ul>	<ul style="list-style-type: none"> <li>▪ Each structure, housing up to 4 employees and their families, is a <u>Conditional Use</u></li> <li>▪ Use permit required to exceed density</li> <li>▪ Subject to annual verification of employment through County</li> <li>▪ Considered a residential use</li> <li>▪ Required to be employed on-site</li> </ul>
<b>5-6 Employees in a Residential Zone (including C-RA)</b>	Health and Safety Code §17021.5 - agricultural worker housing in a residential zone is a single family structure and a residential land use (and not a for-profit commercial enterprise).	
<b>5-36 Employees in Coastal Agricultural Zone (C-APZ, C-ARP)</b>  <i>See Health &amp; Safety Code §17021.6</i>	<ul style="list-style-type: none"> <li>▪ Group quarters w/ no more than 36 beds housing only agricultural workers</li> <li>▪ Up to 12 units or spaces designed for use by a single family or household.</li> <li>▪ Agricultural land use designation</li> <li>▪ Principal Permitted Use</li> <li>▪ Each unit does not count towards density</li> <li>▪ Permit required annually through CA HCD</li> <li>▪ State inspections made prior to occupancy and during occupancy to assure compliance with the use, maintenance and occupancy requirements of laws and regulations.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Group quarters w/ no more than 36 beds housing only agricultural workers</li> <li>▪ Up to 12 units or spaces designed for use by a single family or household.</li> <li>▪ Agricultural land use designation</li> <li>▪ Conditional Use</li> <li>▪ Each unit does not count towards density</li> <li>▪ Permit required annually through CA HCD</li> <li>▪ State inspections made prior to occupancy and during occupancy to assure compliance with the use, maintenance and occupancy requirements of laws and regulations.</li> </ul>

**LUP Policy C-AG-4.1- Permitted Uses in the Agricultural Production Zone**

<b>Option 1</b>	<b>Option 2</b>
<b>b. <u>Permitted Uses</u></b> <ol style="list-style-type: none"> <li>1. Agricultural worker Housing (1-4 employees)</li> <li>2. Agricultural worker Housing (up to 12 units or 36 beds)</li> </ol> <b>c. <u>Conditional Uses</u></b>	<b>b. <u>Permitted Uses</u></b> <b>c. <u>Conditional Uses</u></b> <ol style="list-style-type: none"> <li>I. Agricultural worker Housing (1-4 employees)</li> <li>II. Agricultural worker Housing (5 employees or more- up to 12 units or 36 beds)</li> </ol>

## **VII. Conclusion**

Based on the direction provided by state and local law as well as the draft Housing Element, the proposed LUP policies and programs allow agricultural worker housing as part of the principal permitted agricultural use, and provides that such housing will not be counted in the calculation of residential density in the C-APZ zone on the condition that annual validation of employment through the County and/or California Department of Housing and Community Development (HCD) is secured. Implementing Program 2.1.d supports the establishment of an agricultural worker housing amnesty program.

## Guidelines for Agricultural Worker Housing Needs

Type of Agriculture And Nature of Operations in Marin County	Housing Needs
<p><b>Dairy.</b> Dairies are very labor-intensive operations involving nearly constant animal handling. They also require pasture management activities such as fertilizing, fencing, maintaining water sources, and moving cattle. Most dairies milk two times per day and a few milk three times per day. Dairy employees usually live on-site because milkings usually begin very early in the morning, sick animals can require emergency treatment, and equipment can need tending during all hours. Additionally, dairies generally generate enough cash flow (as compared with beef or sheep operations) that they can afford employees.</p>	<p>There is no set rule about how many employees are needed as this depends on how much family labor is available, what type of feeding system is used (feed wagons vs. feeding grain in the barn) and other factors. The average herd size in Marin is about 300 to 350 cows and most dairy operators have about 4 to 6 employees. The number ranges from about 2 to 7 or 8. Most dairies have some permanent housing and some trailers.</p>
<p><b>Beef cattle and sheep.</b> Cattle and sheep that are raised for meat spend the first approximately nine months out on pasture before they are sold and, in most cases, shipped to and “finished” in a feed lot. Most feedlots are located in Colorado and the mid-west. While animals are out on pasture they do not need, nor do they receive, intensive care and management. In addition, the profit margin in the beef and sheep businesses is so slim that ranchers cannot afford to hire regular help. For a few months before and during calving season, and sometimes in the coldest months of winter, beef cattle are fed supplemental hay to ensure that they have adequate nutrition. The ranchers themselves, with the help of family and occasionally neighbors, feed hay, administer medical care, help with birthing, and tend to pastures. Some beef and sheep operations use a hired hand, but not on a daily basis.</p>	<p>For the most part, there is no need for employee housing for beef and sheep operations.</p>
<p><b>Row crops</b> (fruits, vegetables and nuts). Row crop farming is very labor intensive and can require multiple employees depending on the size of the operation.</p>	<p>Farmers need about one person for 2-2.5 acres. Due to the high price of rental housing in the County, on-site housing is important. Labor needs can be seasonal and the largest operation in Marin County has about 20 employees during summer.</p>
<p><b>Hay and silage production.</b> Silage is only used on dairies, where the dairymen raise it as part of their overall operation. In some cases silage is contract grown on another site and trucked to the dairy at harvest. The intensive work periods associated with hay and silage crops are seasonal – during planting and harvesting only (spring and fall). Neither hay or silage production requires on-site housing.</p>	<p>No housing required.</p>

<p><b>Poultry.</b> There are five poultry operations in Marin County, including two major producers and three small producers. The two larger producers have employees, but the need for on-site housing is not known.</p>	<p>On-site housing may be warranted due to high off-site housing costs.</p>
<p><b>Nursery crops.</b> Nursery operations are highly variable in terms of size, crop etc. Nurseries typically operate during normal business hours and would not require on-site housing. However, intensive operations with high watering requirements could justify the need for on-site housing.</p>	<p>On-site housing could be justified in some circumstances.</p>
<p><b>Aquaculture.</b> There are several aquaculture operations in Marin County.</p>	<p>On-site housing may be warranted due to high off-site housing costs. Aquaculture operations are labor intensive and labor is required year around.</p>

Information in this table was compiled from conversations with two dairy operators and one vegetable farmer, and from common knowledge of the nature of agricultural operations.  
 Lisa Bush, updated 4/9/2010.



## Child Day Care and Agricultural Districts in the Coastal Zone

### I. SUMMARY

The California Child Day Care Act limits the ability of a local jurisdiction to regulate child care facilities through zoning regulations. In order to comply with this law, the LUP and its Implementation Plan (IP) should allow small family childcare homes (SFCH) as a permitted use in all LCP zoning districts in which a residential use is allowed, including C-APZ and C-ARP. The LUP and the IP may permit large family childcare homes (LFCH) as a conditional use in agricultural districts or prohibit them all together. Because State Law with respect to LFCH apply to residentially “zoned” properties, as opposed to those provisions that apply to SFCH that refer to residential “uses”, LFCH may be disallowed in agricultural districts. Finally, the County may disallow child care centers (CCC) in agricultural zoning districts.

### II. State Law Limits a Local Jurisdiction’s Ability to Regulate Family Day Care Homes

The State Legislature enacted the California Child Day Care Act in 1984 (California Health and Safety Code §1596.70 *et seq.*) to encourage the expansion of child care services and to regulate child care services in the state. Health & Safety Code section 1597.40(a) and (b) of California Child Day Care Act provides:

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional setting. The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

The above excerpt from the California Child Day Care Act shows the extent to which local discretion on regulating family day care homes for children is restricted by State law.

#### A. All Child Care Facilities Must be Licensed By The State of California

All child care facilities (Family Day Care Homes and Child Care Centers) are licensed by Community Care Licensing, a division of the Department of Social Services, State of California. The state requires facilities to meet certain minimum health and safety standards in order to receive a license.

#### B. Family Day Care Homes: Regulations for Small and Large

The California Child Day Care Act defines a "Family child care home" as a home which regularly provides care, protection, and supervision of 14 or fewer children, in the provider's own home, for

periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family child care home (LFCH) or a small family child care home (SFCH). (Cal. Health & Safety Code §1596.78).

### **1. Small Family Child Care Home**

State Law defines a small family child care home as a home that provides care for eight or fewer children. (§1597.44). A SFCH is considered a residential use of property for the purposes of all local ordinances. (§1597.45(a)).

State laws prohibit licensed SFCH from being regulated under local zoning ordinances. Licensed Small Family Child Care (child care for up to eight children in the provider's home) is considered a residential use of property. They are permitted by right anywhere a single family home is permitted. Furthermore, a local government cannot require you to do or prevent you from doing anything that is not required of a residential home. For instance, it cannot require a permit fee for a small family child care unless it requires a permit fee for all residences.

### **2. Large Family Child Care Home**

A large family child care home is one that provides care for more than eight (8) and up to fourteen (14) children in the provider's own home for less than 24 hours per day. (§1597.46). The County may not prohibit large family day care homes on lots zoned for single-family dwellings. (§ 1597.46).

Instead, California state law gives local governments the limited authority to place certain restrictions on LFCH facilities while requiring that they be treated as a residential use, meaning that zoning cannot be used to impose any requirements that are not imposed on any home in residential zones. Local jurisdictions may do the following:

- 1) permit LFCH by right (no zoning permits required);
- 2) regulate LFCH through a non-discretionary (ministerial) permit;
- 3) regulate LFCH through a limited administrative use permit.

The limited administrative use permit is also called a “modified conditional use permit.” (*See* Child Care and Zoning, Public Counsel Law Center). This permit is issued by the zoning administrator or other designated planning staff member; however, neighbors within 100 feet of the proposed family day care home must be noticed as to the application no less than 10 days prior to the date on which the decision will be made. (§1597.46) No hearing on the application will be held unless the applicant or other affected person requests a hearing. Again, the permit must be issued if the proposed use meets specific standards set forth the ordinance of the local jurisdiction. (§1597.46)

A jurisdiction that is implementing a non-discretionary permit or administrative use permit process may address only four issues in its ordinance: parking, traffic control, noise, and spacing and concentration. The jurisdiction's ordinance must set forth specific standards in each of these areas, and permits must be granted if the applicant meets these standards. Any regulation of family day care homes beyond these four areas is in conflict with State law.

A local jurisdiction cannot regulate the facility's capacity (e.g., reducing the number below 14 children), hours of operation and hours of outdoor recreational activities, to do so would be unreasonable and unenforceable under California law. However, the applicant would need to satisfy the conditions of approval and obtain all necessary permits (building, fire department, etc...) prior to operation of any

family child care home. A local jurisdiction may also place restrictions on height, setback or lot dimensions that are identical to those applicable to other single-family residences. (§1597.47).

The above standards only apply to lots zoned for single-family dwellings. Thus, LFCH use may be prohibited in agricultural districts. This interpretation is supported by the Coastal Commission (See Santa Cruz LCP Major Amendment Number 1-09 Part 3 (Family Childcare and Miscellaneous Clean-Up), July 22, 2009 *available at* <http://documents.coastal.ca.gov/reports/2009/8/W6e-8-2009.pdf>)

### **C. Child Care Centers**

State law does not pre-empt local zoning ordinances with respect to child care centers. Local jurisdictions may use traditional zoning powers to regulate the location and operation of child care centers. Child care centers may be permitted in some zones, may require administrative review, or may require a Conditional Use Permit (CUP).

## **III. Current Local Regulations**

### **A. Marin County Development Code**

#### **1. The County distinguishes between Small and Large day care homes and Child Care Centers**

Article VIII of the Marin County Development Code defines LFCH as “a day-care facility located in a single-family residence where an occupant of the residence provides care and supervision for eight to 14 children. Children under the age of 10 years who reside in the home count as children served by the day-care facility.” (Article VIII). Small Family Day-Care Homes consist “of a day-care facility located in a single-family residence where an occupant of the residence provides care and supervision for either six or fewer children, or eight or fewer children provided that no more than two of the children are under the age of two and at least two the children are over the age of six. Children under the age of 10 years who reside in the home count as children served by the day-care facility.” (Article VIII). The Development code defines Child Day-Care Centers as a commercial or non-profit child day-care facility designed and approved to accommodate 15 or more children. (Article VIII).

#### **2. Site Planning and General Development Regulations**

Outside of the Coastal Zone, the Marin County Development Code provides that SFCH are a Permitted Use in the A2 and A3 to A60. In the ARP, a SFCH is a permitted use, master plan/precise development plan required (for all uses in planned districts). (See 22.08.030). The development code also provides that LFCHs and CCCs are permitted only after receipt of a use permit in the A2 and A3 to A60 zoning districts. In the ARP, LFCHs and CCCs are conditional uses and require a Use Permit where authorized by a Master Plan/PDP.

#### **1. Standard for Specific Land Uses**

The Development Code states that “as provided by State law (Health and Safety Code Sections 1596.78, et seq.), small and large family day-care homes are allowed within any single-family residence located in an agricultural or residential zoning district.” (22.32.050). It also provides that “Child day-care centers are allowed in the zoning districts determined by Article VII (Zoning Districts and Allowable Land Uses), subject to Use Permit approval, in compliance with Chapter 22.48 (Use Permits), and all of the standards in Subsection D (Child day-care Centers) below.”

A large family day-care home shall require the approval of a Large Family Day-Care Permit by the Director. (22.32.050(c)). This permit is ministerial.

#### **B. Article V**

Article V of the Development code contains chapters on the different types of zoning districts (residential, commercial, etc.) that are applied to public and private land within unincorporated areas of the County located within the Coastal Zone established by the California Coastal Act. Like Article II, this Article outlines permit requirements and development standards for the coastal zone. The Marin County Board of Supervisors approved Article V of the Marin County Development Code on June 24, 2003. However, this article and other provisions of the Development Code do not apply property or defelopment proposals located within the coastal zone of Marin County until approved by the California Coastal Commission. Thus, land located within the coastal zone continues to be regulated by the relevant provisions of Title 22 of the Marin County Code (Zoning). Nevertheless, Article V will be instructive in developing the Implementation Plan for the updated Local Coastal Program. As approved by the Board of Supervisors, Article V treats CCCs as MU (Conditional use, Use Permit required where authorized by Master Plan/PDP) in the C-APZ and C-ARP. It treats LFCH in the same way. SFCHs are treated as MP (Permitted use, Master Plan/Precise Development Plan required) in the C-APZ and C-ARP.

#### **IV. Other Jurisdictions**

##### **A. Sonoma County**

The County of Sonoma defines small family day care home as “a home which provides family day care to six (6) or fewer children, including children under the age of twelve (12) who reside in the home.”<sup>1</sup> It defines a large family day care home as a home which “provides family day care to seven (7) to twelve (12) children, inclusive, including children under the age of twelve (12) who reside at the home. The County of Sonoma provides that small family day cares are permitted uses in both the Land Intensive (LIA) and Land Extensive Agricultural (LEA) Districts. Large family day care is a conditional use in each of those districts.<sup>2</sup>

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<sup>1</sup> Sonoma County Zoning Regulations, Chapter 26, Article 2, *available at* [http://library.municode.com/HTML/16331/level2/C26\\_A02.html](http://library.municode.com/HTML/16331/level2/C26_A02.html)

<sup>2</sup> *Id.* at Articles 4 and 6.

## Group Homes and Residential Care Facilities

### I. SUMMARY

The Fair Housing Act limits the ability of a local jurisdiction to regulate group homes through zoning regulations. In order to comply with this law, the Land Use Plan (LUP) and its Implementation Plan (IP) should allow group homes and residential care facilities as a permitted use in all LCP zoning districts in which a dwelling is allowed, including C-APZ. The LUP and the IP may require a use permit for large group homes and large residential care facilities.

### II. FEDERAL AND STATE LAW

The Fair Housing Act (42 U.S.C. 3601 et seq.) requires local zoning and land use laws to treat groups of unrelated persons with disabilities the same as similar groups of unrelated persons without disabilities. Thus, it is illegal to deny a permit for a home because of the disability of individuals who live or *would* live there. The Development Code distinguishes a group home for six or fewer people with disabilities in name only, referring to it as a “Residential Care Facility,” and otherwise treats both classes equally. Thus, the Fair Housing Act requirements are met in this regard.

Persons with disabilities are entitled to request reasonable accommodations in rules and policies. In conformance with this requirement, the county permits group homes and residential care facilities for seven or more persons, subject to the securing of a use permit.

California Health and Safety Code Sections 1267.8, 1566.3, 1568.08 require local governments to treat licensed group homes and residential care facilities with six or fewer residents no differently than other by-right single-family housing uses. “Six or fewer persons” does not include the operator, the operator’s family or persons employed as staff. Local agencies must allow these licensed residential care facilities in any area zoned for residential use, and may not require licensed residential care facilities for six or less to obtain conditional use permits or variances that are not required of other family dwellings.

Consequently, the County’s Zoning Code currently permits group homes and residential care facilities that serve six or fewer persons in all zones, both residential and agricultural. However, the County may still require the compliance with all local laws that that are enforced for single-family homes such as noise, parking of vehicles, overall property maintenance, use of garage, etc..

### III. TITLE 22I- INTERIM ZONING CODE

The Interim Zoning Code states that “a group home shall be a permitted use for up to six persons” in agricultural districts including APZ. (22.68.100I). A group home for seven or more persons is “permitted, subject to the securing of a use permit.” (22.68.100I). Two or more group home dwellings or buildings occupying a property in one ownership shall be permitted, subject to a use permit and potentially a master plan.

#### a. Definitions:

##### **22.02.335I Group home.**

"Group home" means a family dwelling unit licensed or supervised by any federal, state or local health/welfare agency which provides twenty-four-hour nonmedical care of unrelated persons who are not disabled but are in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. For the purposes of this definition, a "family dwelling unit" includes, but is not limited to, a single-family dwelling, a unit in a multifamily dwelling, including a unit in a duplex and a unit in an apartment

building, a mobile home, including a mobile home located in a mobile home park, a unit in a cooperative, a unit in a condominium development, a unit in a townhouse development, and a unit in a planned district.

**22.02.590I Residential Care facility**

“Residential care facility” means a family dwelling unit licensed or supervised by any federal, state or local health/welfare agency which provides twenty-four-hour nonmedical care of unrelated persons who are disabled and in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family –like environment. For the purposes of this definition, a “family dwelling unit” includes, but is not limited to, a single-family dwelling, a unit in a multifamily dwelling, including a unit in a duplex and a unit in an apartment building, a mobile home, including a mobile home located in a mobile home park, a unit in a cooperative, a unit in a condominium development, a unit in a townhouse development, and a unit in a planned district.

**b. Use Regulations**

**22.68.090I- Residential care facility.**

Notwithstanding any provision of this title, a residential care facility shall be a permitted use in the following zoning districts: A, A-2, R-A, R-R, R-E, R-1, R-2, R-3, R-3A, VCR, ARP, APZ, RSP, RSPS, RMP, RMPC, RF and RX. Two or more residential care facility dwellings or buildings occupying a property in one ownership shall be permitted, subject to the securing of a use permit or subject to the approval of a master plan where required.

**22.68.100I – Group homes**

Notwithstanding any provision of this title, a group home shall be a permitted use for up to six persons in the following zoning districts: A, A-2, R-A, R-R, R-E, R-1, R-2, R-3, R-3A, VCR, ARP, APZ, RSP, RSPS, RMP, RMPC, RF and RX. A group home for seven or more persons is permitted, subject to the securing of a use permit. Two or more group home dwellings or buildings occupying a property in one ownership shall be permitted, subject to the securing of a use permit or subject to the approval of a master plan where required.

**IV. DEVELOPMENT CODE**

**a. Definitions- Marin County Code Section 22.130.030**

**Family-** "Family" means one or more persons occupying a premises and living as a single, nonprofit, domestic housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.

**Group Homes (land use)-** This land use consists of a dwelling unit licensed or supervised by any federal, state or local health/welfare agency which provides twenty-four-hour nonmedical care of unrelated persons who are not disabled but are in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. Includes: Children's homes; rehabilitation centers; self-help group homes. Medical care may be provided in conjunction with group homes that provide alcoholism or drug abuse recovery or treatment services. Convalescent homes, nursing homes and similar facilities providing medical care are included under the definition of "Medical Services—Extended Care".<sup>1</sup>

**Residential Care Facilities (land use).** This land use consists of a dwelling unit licensed or supervised by any Federal, State, or local health/welfare agency which provides 24-hour nonmedical care of

unrelated persons who are disabled and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. This land use includes licensed senior care facilities. For purposes of calculating residential densities, a unit that contains a food preparation area is not counted as a separate residential unit if meal service is provided at least twice a day as part of the residential care component.

**b. Development Standards**

**22.32.080 Group Homes and Residential Care Facilities.**

The standards of this Section shall apply to group homes and residential care facilities. Group homes and residential care facilities are dwellings licensed or supervised by any Federal, State, or local health or welfare agency that provide twenty-four-hour non-medical care of unrelated persons, who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment.

- A. **Permitted use, zoning districts.** Group homes and residential care facilities are permitted in all zoning districts where dwellings are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones--Permit Requirements and Development Standards).
- B. **Limitations on use:**
  - 1. **Group homes.** Group homes are for persons who are not disabled.
  - 2. **Residential care facilities.** Residential care facilities are for persons who are disabled, as defined in Article VIII (Development Code Definitions).
- C. **Permit requirements:**
  - 1. **Small group homes (six or fewer persons).** A small group home is a permitted use in all zoning districts where dwellings are allowed.
  - 2. **Large group home (seven or more persons).** A large group home is a permitted use in all zoning districts where dwellings are allowed, subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).
  - 3. **Multiple group homes or residential care facilities.** Two or more group homes or residential care facilities occupying a lot are a permitted use, subject to:
    - a. Use Permit approval in compliance with Chapter 22.48 (Use Permits) and, where required, Master Plan approval in compliance with Chapter 22.44 (Master Plans and Precise Development Plans); and
    - b. Compliance with minimum lot area per unit and maximum density requirements of the zoning district where the dwellings are located.

## **AGRICULTURE: COASTAL ACT PROVISIONS: Sec. 30241, 30241.5, 30242, 30243**

### **30241 Prime agricultural land; maintenance in agricultural production**

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of prime agricultural lands.

### **30241.5 Agricultural land; determination of viability of uses; economic feasibility evaluation**

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

### **30242 Lands suitable for agricultural use; conversion**

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.



### **30243 Productivity of soils and timberlands; conversions**

The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

**C-APZ (Agricultural Production ) Side-by-Side Summary Comparison**

Existing Principal Permitted Use (Title 22 I, §22.57.025I – 22.57.034I)	Proposed Principal Permitted Use (Chapter 22.130 and TABLE 5-1-a)
<p><b><u>Agricultural</u></b> (22.57.032I)</p> <p>1. Agricultural Uses. For the purposes of the coastal agricultural production zone, agricultural uses are defined as uses of land to grow and/or produce agricultural commodities for commercial purposes, including:</p> <p>a. Livestock and poultry: Cattle, sheep, poultry, goats, rabbits, horses unless they are the primary animals raised;</p> <p>b. Livestock and poultry products: Milk, wool, eggs;</p> <p>c. Field, fruit, nut and vegetable crops: Hay, grain, silage, pasture, fruits, nuts and vegetables;</p> <p>d. Nursery products: Nursery crops, cut plants.</p>	<p><b><u>Agricultural Production</u></b> ( see also “Agriculture” Definitions, Ch.22.130)</p> <p><b>Agricultural Production (land use) (coastal).</b> This land use consists of the raising of animals used in farming or the growing and/or producing of agricultural commodities for commercial purposes, including the following and substantially similar uses of an equivalent nature and intensity:</p> <ol style="list-style-type: none"> <li>1. Livestock and poultry - cattle, sheep, poultry, goats, rabbits, , and horses provided that horses are accessory and incidental to, in support of, and compatible with the property’s agricultural production.</li> <li>2. Livestock and poultry products (such as milk, wool, eggs).</li> <li>3. Field, fruit, nut, and vegetable crops - hay grain, silage, pasture, fruits, nuts, seeds, and vegetables.</li> <li>4. Nursery products - nursery crops, cut plants.</li> <li>5. <u>Aquaculture and mariculture</u></li> <li>6. <u>Viticulture</u></li> <li>7. <u>Vermiculture</u></li> <li>8. <u>Forestry</u></li> <li>9. Commercial gardening</li> <li>10. <u>Beekeeping</u></li> </ol> <p><b><u>PRD Table 5-1-a</u></b>  <u>Commercial Gardening</u>  Dairy operations  Livestock operations, grazing  Livestock operations, large animals  Livestock operations, small animals  <u>Agricultural worker housing (was U)</u></p>
<p><b><u>Agricultural</u></b> (cont.)</p> <p>2. One single-family dwelling per parcel. Parcel is defined as all contiguous assessor’s parcels under common ownership (unless legally divided as per Title 20, Marin County Code).</p>	<p><b><u>Agricultural</u></b> (cont.)</p> <p><del>Agricultural Owner/Operator Single-family dwelling,</del>  <b><u>Farmhouse (coastal)</u></b> This land use consists of a <u>Single Family Dwelling that is the residence of the owner or operator of the agriculturally zoned property upon which it is locate</u></p> <p><u>Agricultural Intergenerational Home (first)</u>  <u>Agricultural worker housing (was U)</u></p>
<p>3. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind; but, including barns, fences, stables, corrals, coops and pens and utility facilities.</p>	<p>Agricultural accessory structures  Agricultural accessory activities  <u>Agricultural processing uses, small scale</u>  <u>Agricultural product sales, small scale</u></p>

<p>4. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.</p>	<p>Bed and breakfast inns, 3 or fewer guest rooms (<i>Table 5-1-d</i>)  <u>Agricultural homestays, 3 or fewer guest rooms</u>  <u>Educational Tours (non-profit)</u></p>
<p><b>Existing Conditional Uses</b></p>	<p><b>Proposed <i>Permitted</i>, Conditional Uses</b></p>
<p><b><u>Agricultural</u></b>  1. Farmworker housing;  2. Mobile homes which are used exclusively for employees of the owner who are actively and directly engaged in the agricultural use of the land;  3. Hog ranch;  4. Veterinary facilities;  5. Fish hatcheries and rearing ponds;  7. Raising of other food and fiber producing animals not listed under Subsection 22.57.032I(1);  8. Planting, raising or harvesting of trees for timber, fuel or Christmas tree production;  9. Facilities for processing or retail sale of agricultural products;  10. Greenhouses;</p>	<p><b><u>Agricultural</u></b>  <u>Agricultural Intergenerational Home (second)</u>    Fish hatcheries and game reserves  Raising of other food and fiber producing animals not listed under “agricultural production”  Livestock operations, sales/feed lots, stockyards    Timber and tree production (<i>Table 5-1-d</i>)    Agricultural processing uses, larger scale  Agricultural product sales, larger scale  Sales of agricultural products (<i>Table 5-1-d</i>)</p>
<p><b><u>Recreation, Education, and Public Assembly Uses</u></b>  6. Stabling of more than five horses on ranches where horses are the primary or only animals raised;  15. Public or private recreational activities, such as hunting, fishing and camping;</p>	<p><b><u>Recreation, Education, and Public Assembly Uses</u></b>  Equestrian facilities  Horses, donkeys, mules, ponies    Campgrounds  Hunting and fishing clubs (Private)  Hunting and fishing clubs (Public)  Private residential recreational facilities</p>
<p><b><u>Residential Uses</u></b>  none</p>	<p><b><u>Residential Uses</u></b>  <u>Land division</u>  <u>Single-family dwelling.</u></p>
<p><b><u>Resource, Open Space Uses</u></b>  12. Water conservation dams and ponds;  13. Mineral resource production;  14. Game or nature preserve or refuge;    18. Dump.</p>	<p><b><u>Resource, Open Space Uses</u></b>  Water conservation dams and ponds  Mineral resource extraction  Fish hatcheries and game reserves  Nature preserves</p>
<p><b><u>Retail Trade Uses</u></b>  11. Commercial storage and sale of garden supply products;  16. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms;</p>	<p><b><u>Retail Trade Uses</u></b>  Commercial storage and sale of garden supply products    Bed and breakfast inns, 4 or 5 guest rooms  Agricultural homestays, 4 or 5 guest rooms (<i>Table 5-1-a</i>)</p>
<p><b><u>Transportation and Communications Uses</u></b>  17. Construction or alteration of gas, electric,</p>	<p><b><u>Transportation and Communications Uses</u></b>  • <u>Pipelines and utility lines</u></p>

<p>water, communication or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies;</p> <ul style="list-style-type: none"> <li>Commercial or noncommercial marinas and appurtenant waterfront uses</li> </ul>	<ul style="list-style-type: none"> <li>Marinas and harbors</li> <li><u>Airparks</u></li> <li><u>Telecommunications facilities (P/U)</u></li> </ul>
<p><b><u>Recreation, Education and Public Assembly Uses</u></b></p> <ul style="list-style-type: none"> <li>Golf courses and country clubs</li> <li>Public or private schools</li> <li>Public or civic buildings</li> <li>Private recreational uses</li> <li>Stables and riding academies</li> </ul>	<p><b><u>Recreation, Education and Public Assembly Uses</u></b></p> <ul style="list-style-type: none"> <li>Golf courses/country clubs</li> <li><del>Public or private Schools</del></li> <li><del>Public or civic buildings</del></li> <li>Private <u>residential</u> recreational uses facilities</li> <li><del>Stables and riding academies</del> Equestrian facilities</li> <li><u>Campgrounds</u></li> <li><u>Educational tours (for profit)</u></li> <li><u>Horses, donkeys, mules and ponies (subject to standards)</u></li> <li><u>Hunting and fishing clubs (private)</u></li> <li><u>Hunting and fishing clubs (public)</u></li> <li><u>Libraries and museums</u></li> <li><i>Public parks and playgrounds (was PP)</i></li> <li><u>Religious places of worship</u></li> <li>Rural recreation (was PP as “recreation area”)</li> </ul>
<p><b><u>Residential Uses</u></b></p> <ul style="list-style-type: none"> <li>Residential accommodations for teachers or custodial staff (<i>associated with schools, public buildings and private recreational uses</i>)</li> </ul>	<p><b><u>Residential Uses</u></b></p> <ul style="list-style-type: none"> <li>Single family dwellings, attached or detached (only for teachers or custodial staff or dwellings clearly incidental to agricultural use of property)</li> <li><u>Affordable housing</u></li> <li><u>Guest houses (accessory to approved sfr)</u></li> <li><u>Home occupations (accessory to approved sfr)</u></li> <li><u>Residential accessory uses and structures (with approved sfr)</u></li> </ul>
<p><b><u>Resource, Open Space Uses</u></b> (no P/U uses listed)</p>	<p><b><u>Resource, Open Space Uses</u></b></p> <ul style="list-style-type: none"> <li><i>Nature preserves (was PP as “wildlife preserve”)</i></li> <li><u>Water conservation dams and ponds</u></li> <li><u>Wind energy conversion systems (WECS), Small freestanding</u></li> <li><u>Wind energy conversion systems (WECS), Medium</u></li> <li><u>Water wells or septic systems to serve development on adjoining land</u></li> </ul>

<p><b><u>Retail Trade Uses</u></b></p> <ul style="list-style-type: none"> <li>• Public utility or public service uses</li> <li>• Uses within the purposes and powers authorized by a local agency (except no UP required for underground gas, water, electrical and communications transmission and distribution lines)</li> <li>•</li> </ul>	<p><b><u>Retail Trade Uses</u></b></p> <ul style="list-style-type: none"> <li>• Public safety/service facilities</li> <li>• Public utility facilities (see also “pipelines and utility lines” under Transportation/Communications uses below)</li> <li>• <u>Sale of agricultural products</u></li> <li>• <u>Cemeteries, columbariums, mausoleums</u></li> <li>• <u>Storage, accessory</u></li> </ul>
<p><b><u>Transportation and Communications Uses</u></b></p> <ul style="list-style-type: none"> <li>• Commercial or noncommercial marinas and appurtenant waterfront uses</li> </ul>	<p><b><u>Transportation and Communications Uses</u></b></p> <ul style="list-style-type: none"> <li>• Marinas and harbors</li> <li>• <u>Airparks</u></li> <li>• <u>Pipelines and utility lines</u></li> <li>• <u>Telecommunications facilities (P/U)</u></li> </ul>