



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
ALEX HINDS, DIRECTOR

September 11, 2007

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

SUBJECT: Marin County Draft Countywide Plan (CWP) Update

Dear Board Members:

RECOMMENDATIONS:

1. Conduct a public hearing on the Natural Systems and Agriculture Element focusing on the topics listed in the staff report.
2. Close public testimony.
3. Board questions and deliberations.
4. Conduct straw votes (non-binding motions of intent) focusing on topics in staff report.
5. Continue the public hearing to Tuesday, September 25, 2007, at 1:30 p.m.

Today is the second Board of Supervisors hearing on the Draft Marin Countywide Plan (CWP) and the first hearing specifically focusing on the Natural Systems and Agriculture Element. Major topics for today's Board hearing include:

- Sensitive Biological Resources
- Climate Change
- Trails on Agricultural Land
- Agriculture

The future dates and recommended topics for Board meetings include:

September 25, 2007	Built Environment and Socioeconomic Elements; carryover topics from the September 10 th and 11 th hearing;
October 16, 2007	Completion of carryover topics from previous hearings; initial direction regarding EIR Certification, and CWP Action
October 23, 2007	Consideration of EIR Certification and CWP Action

NATURAL SYSTEMS TOPICS

This hearing will focus on major topics in the Natural Systems Element as follows:

TOPIC 1: Sensitive Biological Resources

The protection of environmentally sensitive resources such as wetlands, riparian, and baylands areas - along with associated habitats - received extensive public testimony during the update of the Countywide Plan. Consequently, this section has been divided into the following subtopics:

- Wetlands Definition
- Riparian and Wetlands Protection
- Baylands Corridor Location
- Baylands Corridor/Airport Issues

SUBTOPIC 1A - Wetlands Definition

Following their July 23rd meeting, the Planning Commission recommended that the Board of Supervisors consider using the broader Coastal Commission definition of wetlands subject to the various wetland policies in the Countywide Plan.

The Draft CWP as recommended by the Planning Commission (as well as the existing 1994 CWP) uses the definition applied under federal wetlands laws to delineate wetlands outside the area subject to the Local Coastal Program. In the Coastal Zone, the broader Coastal Commission definition is used (also referred to as the "Cowardin" definition). The Planning Commission retained this distinction in the recommended CWP based on representations that applying the Coastal Commission definition Countywide would require the County to oversee all wetland delineations and verifications.

However, at its July 23rd hearing the Planning Commission received additional testimony indicating that if the County were to use the Coastal Commission definition, the information obtained from the federal delineation process (or Coastal Commission process in the Coastal Zone) would remain relevant and that the only extra work for County staff would largely be restricted to diked baylands and limited inland wetlands and that the costs for additional staff time and consultants could be passed on to the applicant. In light of this testimony, the Planning Commission now believes it is preferable for the entire County to use the Cowardin definition of wetlands relied upon by the Coastal Commission. The Planning Commission believes that use of this broader definition is justified in light of the CWP's emphasis on the importance of wetlands protection. (See text below.)

Cowardin definition: *Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands*

must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. (Cowardin et al., 1979.)

As noted above, classification as a wetland in the Coastal Zone requires the presence of only one of three indicators – while the rest of unincorporated Marin uses the more limited Corps of Engineer’s definition. Furthermore, the Coastal Zone definition of a wetland is administered under the guidance of the Coastal Commission. Applying the Cowardin definition throughout unincorporated Marin County could, in staff and our consultant’s opinion, result in the assumption of legal responsibility for the delineation of wetlands and administration of this program – which is currently largely done by the Corps of Engineers. Because of a number of uncertainties regarding the effects of making such a change, our consulting biologist and staff continue to not support using the Cowardin definition at this time. In addition, the Planning Division does not currently have a biologist on staff to oversee administration of this responsibility.

Issues for further consideration:

Because this issue was addressed by the Planning Commission, if the Board is interested in further pursuing this matter, a new program could be added to the Countywide Plan to study and evaluate this issue as follows:

- 1) **BIO-3.h (new) Evaluate Wetlands Definitions.** Conduct a study to evaluate whether to continue rely upon the Corps of Engineers definition of wetlands outside of the Coastal Zone or to expand the use of the Coastal Zone (or "Cowardin") definition to the entire County. The study should consider all of the following in developing a recommendation to the Board of Supervisors: 1) the effect of the expanded wetland definition when coupled with SCA and WCA requirements; 2) the extent of the geographic areas potentially affected by the expanded definition; 3) performance of wetland delineations for areas outside the Coastal Zone (in-house staff or consultants); 4) potential costs and workloads associated with delineations, administration and appeals; and 5) overall feasibility of implementation and enforcement responsibilities associated with an expanded definition.

SUBTOPIC 1B - Riparian and Wetlands Protection

The protection of stream and wetlands conservation areas continued to be a central theme of the Draft CWP. Public comments concerning riparian and wetlands protection included:

- Consider a moratorium on any new construction in the SCA until additional long term riparian habitat studies have been completed.

- Enact a Native Riparian Forest Management Policy and Ordinance.
- Implement stricter enforcement of violations in the SCA.
- Require zero net increase in stormwater run-off for all new development.
- Work with NGO's to identify and acquire undeveloped land parcels.

Issues for further consideration:

Because the issue of habitat protection in the SCA and WCA was considered by the Planning Commission, the Board could consider deleting program EH-3.p in the Environmental Hazards Section with a new Biological Resources program calling for long term habitat protection studies as follows:

BIO-4.t (NEW) Collaborate with Groups to Address Implementation of Protections to SCAs and WCAs. Collaborate with local, regional, state, and federal organizations (Marin Organic, MALT, SPAWN, Marin Audubon, RCD, Fish and Game, RWQCB, and affected property owners) to address long term habitat protection and develop funding mechanisms to address the issue.

SUBTOPIC 1C – Baylands Corridor Location

Establishment of a Baylands Corridor has become an even more timely issue in light of increased concerns about the effects of climate change and sea level rise. The Baylands Corridor would recognize the importance and environmental sensitivity of historic baylands and large, adjacent essential uplands would receive additional protection. Habitat restoration and enhancement efforts would also be encouraged. Three options were presented to the Planning Commission in the Draft 2005 CWP Update (See Attachment 1) as follows:

Under Option 1, the western edge of the Baylands Corridor extended approximately 300 feet landward from the edge of the historic bay marshlands based on mapping prepared by the San Francisco Estuary Institute (see Exhibit 4.6-7). The inclusion of the above referenced 300-foot distance is consistent with the minimum setback recommendations from tidelands contained in the *Baylands Ecosystem Habitat Goals* report, and provided additional protection for sensitive baylands.

Under Option 3, the railroad right-of-way would have formed the western edge of the Baylands Corridor, which under this option would not include the entire boundary of the historic bay marshlands or include the 300-foot buffer as recommended in the *Baylands Ecosystem Habitat Goals*. This option could limit the effectiveness of the proposed Baylands Corridor.

Option 2 for the Baylands Corridor was included in the environmentally superior alternative of the environmental impact report, and the Planning Commission recommended that the boundary be refined to include areas previously included in the Bayfront Conservation Zones as shown in Figure EQ-9 in the 1994 Countywide Plan. Furthermore, non-tidal portions of small, developed, privately-owned parcels—which

were previously excluded—have also been recommended to be included. This option of the Baylands Corridor extends west to Highway 101 in portions of the Las Gallinas and North Novato Planning Areas. By extending the Baylands Corridor to U.S. 101 under Option 2, greater attention was given to the interrelationship of the scattered biological and wetland features and how they contribute to the overall habitat values of the entire property and larger baylands ecosystem, as called for in Implementation **BIO-5a**, *Establish Criteria for Upland Setbacks in the Baylands Corridor*. Adoption of Option 2 does not preclude additional development on the St. Vincent's and Silveira properties.

In addition, following their final July 23rd hearing on the Countywide Plan, the Planning Commission recommended that the Board of Supervisors immediately direct CDA to pursue the necessary work to enable additional areas (large undeveloped parcels north of Gness Field and small commercial parcels around Richardson Bay) to be included in the Baylands Corridor prior to adoption of the Countywide Plan. Staff continues to recommend against including these additional areas in the Baylands Corridor prior to additional study after adoption of the Countywide Plan.

Issues for further consideration:

Because these issues were addressed by the Planning Commission, if the Board is interested in further pursuing this matter, all three options (or a variation within the range of options previously addressed) may be considered. In addition, currently the language in the Planning Commission Draft Plan, Program **BIO-5.i**, *Conduct Mapping and Analysis*, recommends studying whether additional areas should be added to the Baylands Corridor. This program was added as an immediate high-priority item. If the Board is interested, a sixth criterion (underlined below) could be added for further clarification as follows:

BIO-5.i *Conduct Mapping and Analysis* - Detailed resource mapping and analysis should be undertaken to determine whether it is appropriate to include additional associated habitats located on large primarily undeveloped lands within the Baylands Corridor, particularly those areas north of Novato and east of Highway 101.

Small parcels not currently subject to tidal influence should be subject to mapping and analysis to determine whether they should be added to or omitted from the Baylands Corridor. In particular, historic marshland in the Richardson Bay and Bothin Marsh area should be included in the resource mapping and analysis to determine if these parcels meet the criteria for inclusion in the Baylands Corridor.

This mapping and analysis should: 1) identify existing vegetative cover and sensitive features, such as streams, wetlands, and occurrences of special-status species; 2) use focal species and other similar ecological tools to determine the interrelationship between baylands and uplands; 3) identify methods to maintain

connectivity between sensitive habitat features and baylands; 4) specify criteria and thresholds used in determining the extent of upland habitat essential to the baylands ecosystem; and 5) make recommendations on an appropriate biologically-based boundary if the Baylands Corridor is to be expanded. Completion of the analysis does not require on-site evaluations; 6) identify lands that could be restored to provide habitat or protection from sea level rise.

Subtopic 1D – Baylands Corridor/Airport Issues

Concerns have been expressed by representatives of the San Rafael Airport and Marin County Public Works Department regarding inclusion of these airports within the proposed Baylands Corridor. In general, these concerns have focused on potential airport operational and safety issues, continuation of currently allowed activities, and limitations on future expansion. Consequently, staff have met on several occasions and prepared additional revisions to clarify that efforts to restore or enhance wetlands in the vicinity of Gness Field or the San Rafael Airport would need to avoid creating possible safety concerns and demonstrate compliance with applicable FAA guidelines. Furthermore, it should be clarified that inclusion of all or portions of the airports within the Baylands Corridor will not restrict their continued operations, or expansion per approved Airport Master Plans or Airport Land Use Plans.

Issues for further consideration:

Because this issue was addressed by the Planning Commission, if the Board is interested in further pursuing this matter, revisions could be added to the Countywide Plan. Additional options that could be considered include:

1) Add clarifying language to Goal BIO-5 (see top of page 2-41) stating that: Within the Baylands Corridor, improvements on airport property pursuant to an approved Airport Master Plan or Airport Land Use Plan will not be subject to additional Baylands protection regulations other than those previously applied to such lands...such activities include existing dredge disposal sites. This and similar clarifying language (see below) is the option preferred by CDA staff.

2) Remove San Rafael Airport from the Baylands Corridor and revert it back to the City-Centered Corridor along with clarifying language stating: Maps 2-5a,b have been amended to remove the San Rafael Airport from the Baylands Corridor. The reason that CDA staff also supports this change is to ensure that planning for the airport will be consistent with the planning policies of the City of San Rafael in which most of the airport is located.

CDA staff and consultants believe the issues of concern to DPW are addressed by Option 1 and subsequent clarifying language. However, if the Board chooses, Option 3 could be considered an alternative solution.

3) Also remove Gness Field from the Baylands Corridor and revert it back to the Inland Rural and City-Centered Corridors along with clarifying language stating: Maps 2-5a,b have been amended to remove Gness Field from the Baylands Corridor. The reason for this change is to ensure that airport improvements will be allowed pursuant to the approved Airport Master Plan and Airport Land Use Plan.

To further address this issue, the following underlined additions may also be considered:

Goal BIO-5

Baylands Conservation. Preserve and enhance the diversity of the baylands ecosystem, including tidal marshes and adjacent uplands, seasonal marshes and wetlands, rocky shorelines, lagoons, agricultural lands, and low-lying grasslands overlying historical marshlands.

The Baylands Corridor is described on Maps 2-5a and 2-5b. While the mapped areas include lands within incorporated cities, the policies, programs, and implementation measures related to the Baylands Corridor apply only within unincorporated Marin County.

The Baylands Corridor consists of areas previously included in the Bayfront Conservation Zones in the 1994 Countywide Plan as well as all areas included in Bayfront Conservation Zone overlays adopted since the 1994 Countywide Plan. The Baylands Corridor consists of land containing historic bay marshlands based on maps prepared by the San Francisco Estuary Institute. Based upon information contained in studies completed during the preparation of this Plan, the Baylands Corridor also includes associated habitat from San Francisco Bay to Highway 101 in the Las Gallinas Planning Area. Except in the Tam Junction area and at the Rowland Boulevard and Highway 101 interchange in Novato, the Baylands Corridor does not extend west of Highway 101.

Where applicable for large parcels (more than two acres in size) which are primarily undeveloped, and based upon site specific characteristics, an additional area of 300 feet or more of associated habitat is included. The inclusion of the 300 foot buffer is consistent with the minimum setback recommendations of the 1999 *Baylands Ecosystem Habitat Goals* report. This portion of the corridor serves to both recognize the biological importance of associated uplands adjacent to remaining tidelands and to provide the opportunity to improve habitat values as part of future restoration of historic tidelands.

Within the Baylands Corridor, potential residential density and commercial floor area ratios shall be calculated at the low end of the applicable ranges. This provision does not apply to small parcels (two acres or less in size) which were legally created prior to January 1, 2007. Within PD-AERA designation, the density and floor area ratios shall be as specified for those areas. Section 22.14.060 of the Development Code should be updated to reflect these policies.

For parcels of all sizes, existing lawful uses are grandfathered. For properties two acres or less in size within the Bayfront Conservation Zone on January 1, 2007, no additional regulations are imposed than previously applied to such lands. Creation of the Baylands Corridor will not subject currently allowed activities to additional County regulation. Such activities include repair and maintenance of bank erosion protection (riprap, plantings, etc.) and docks, levees or dredging of existing dredged channels (such as Novato Creek) including existing dredge disposal sites.

The provisions of TR-1.7, *Direct Aviation Uses to Appropriate Locations*, and TR-1.p, *Limit Aviation Uses*, apply to airport facilities which are within the Baylands Corridor. Efforts to restore or enhance wetlands in the vicinity of the San Rafael Airport or Gness Field shall avoid creating possible safety concerns related to aircraft operations and shall be consistent with applicable FAA guidelines.

In addition, the following underlined revisions to the Transportation section of Built Environment Element could be considered:

TR-1.7 **Direct Aviation Uses to Appropriate Locations.** Maintain Gness Field as the County's civilian airport facility and limit its use and expansion in accordance with the adopted Airport Master Plan. Continue to allow the private San Rafael Airport consistent with the 1993 Declaration of Restrictions and the Richardson Bay seaplane base and helipad. Require additional aviation facility proposals to conduct site-specific environmental analysis prior to consideration.

TR-1.p *Limit Aviation Uses.* Maintain the County Airport at Gness Field as the primary civilian airport facility in the county and limit its use to general aviation and emergency flights, in accordance with the *Airport Master Plan for Gness Field* (1989) and current technological conditions. Continue to allow the private San Rafael Airport facility consistent with the 1993 Declaration of Restrictions and the heliport and seaplane bases in Richardson Bay to provide water-oriented visitor and commercial uses. Any proposed helipad shall be subject to all applicable CEQA requirements prior to consideration.

TOPIC 2: Climate Change

This update of the Countywide Plan (and accompanying environmental impact report) represents one of the first local general plan efforts in the nation to address climate change as a major issue. In 2002, sustainability team staff in the Community Development Agency initiated a climate change program in collaboration with the International Council of Local Environmental Initiatives and then included this topic within the Countywide Plan update. Towards that end, climate change is not only discussed in the Atmosphere and Climate section of the Plan, but also in other applicable sections such as Community Development and Transportation. To their credit, as early as 2004 the Planning Commission requested that staff expand our

discussion of climate changes issues in the Plan. The following are underlined examples of revised text included in the Planning Commission Recommended Draft CWP:

AIR-4.c *Reduce Methane Emissions Released from Waste Disposal.* Encourage recycling, decrease waste sent to landfills, require landfill methane recovery, and ~~determine the potential to use~~ promote methane recovery for energy production.

AIR-4.f *Establish a Climate Change Planning Process.* ~~Approve and begin~~ Continue implementation of the approved Marin County Greenhouse Gas Reduction Plan. Integrate this plan into long range and current planning functions of other related agencies. Establish and maintain a process to implement, measure, evaluate, and modify implementation programs, using the Cities for Climate Protection Campaign as a model.

AIR-5.h *Implement Floodplain Ordinances.* Continue to implement ordinances that regulate floodplain development to ensure that project-related and cumulative flooding impacts are minimized or avoided through conditions of project approval as required by the ordinances.

AIR-5.i *Modify Construction Standards.* Amend the Marin County Code to include construction standards for areas threatened by future sea level rise.

CD-1.h (Built Environment Element) *Consider Future Threat of Sea Level Rise.* Consider revising Policy CD-1.3 to include properties threatened by sea level rise as more information about the sea level rise threat becomes available.

Issues for further consideration:

Since the action taken by the Planning Commission, staff has been tracking leading edge policies and programs to address climate change and mitigate our impact on global warming. Specific recommendations have been made available recently by the office of the Attorney General which could supplement the existing policies and programs in the Planning Commission Recommended Draft CWP. Staff has compiled additional policies and programs suggested by the Attorney General in recent correspondence related to general plan mitigation of greenhouse gas impacts.

Because this issue was addressed by the Planning Commission, if the Board is interested in further pursuing this matter, revisions could be added to the Atmosphere and Climate section as follows:

Atmosphere and Climate

GOAL AIR-4 *Minimization of Contributions to Greenhouse Gases.* Prepare policies that promote efficient management and use of resources in order to

minimize greenhouse gas emissions. Incorporate sea-level rise and more extreme weather information into all aspects of planning.

Maintain priority rating “High,” timeframe “Immediate,” and identify funding source for existing program AIR 4.f:

AIR-4.f *Establish a Climate Change Planning Process.* Continue implementation of the approved Marin County Greenhouse Gas Reduction Plan. Integrate this plan into long range and current planning functions of other related agencies. Establish and maintain a process to implement, measure, evaluate, and modify implementing programs, using the Cities for Climate Protection Campaign as a model.

As approximately 90% of Marin’s greenhouse gas emissions are the result of transportation and constructing and occupying buildings, additional policies and programs related to vehicle miles traveled and green building will be further discussed in the Built Environment staff report for September 25th. In addition, staff will be recommending increasing the “priority” rating and identifying funding for three existing programs: AIR-4.f, TR-1.s, and EN-1.a.

TOPIC 3 - Trails on Agricultural Lands

Marin County’s trail system connects environmentally important areas (such as bayland, coastal, and ridgeland areas), parks and open space, and greenbelts among urban areas. Preservation of existing trails, acquisition of new rights-of-way, minimization of environmental impacts, and balancing access and property rights remain key issues in managing local trails.

Trails on private agricultural lands were hotly contested during the public hearing process. Public comment from representatives of the Farm Bureau and others expressed their concern that these trails encourage trespassing, harm agriculture by potentially introducing and spreading hoof and mouth and similar diseases, increase liability, and promote hardship on landowners by requiring public access easements as a condition of approval for development applications.

Several trails are proposed on or near agricultural lands as a result of the California Coastal Trail established through SB908 in 2001 and managed by the California Coastal Conservancy. The proposed California Coastal Trail extends 1,300 miles along the entire California coast. It traverses through Marin County along the coastline, in some instances adjacent to or across agricultural land. The California Coastal Trail is envisioned as a continuous public right-of-way along the California coastline; a trail designed to foster appreciation and stewardship of the scenic and natural resources of the coast through hiking and other complementary modes of nonmotorized transportation. The proposed California Coastal Trail provides linkages to other trail systems and increases accessibility to coastal resources while considering the

protection of natural habitats, cultural and archeological features, private property rights, and agricultural operations in the trail's design.

To assist in this discussion, Attachment 2 includes a series of trails maps prepared illustrating the following:

- Existing 1994 CWP trails
- Proposed 1994 CWP trails
- Trails constructed since 1994
- Trails proposed in the Draft CWP Update

The 1994 CWP displayed over 810 miles of trails, including 630 miles of existing trails and 180 miles of proposed trails. Since the adoption of the 1994 CWP, 210 miles of trails have been constructed. The Draft CWP Update proposes 126 miles of new trails. Of these, the majority of the new trails proposed on agricultural land are a result of the Coastal, Ridge, and Bay trail systems (see Attachment 3). The Planning Commission recommended modifying Program TRL-2.d *Protect Property Rights*, to include agricultural operations as sensitive land uses where caution is needed to design and locate trails to avoid trespassing and adverse impacts on adjacent private lands.

Issues for further consideration:

Because trail issues were comprehensively addressed by the Planning Commission, if the Board is interested in pursuing further modifications to this topic, revised trail locations and programs could be considered as follows:

- 1) Remove more recently proposed trails that are not associated with statewide or regional trail systems as shown on Attachment 4, Marin Countywide Trails Plan Maps 2-19b and 2-19d.
- 2) Revise Program TRL-2.d as follows:
TRL-2.d *Protect Property Rights*. Design and locate trails to avoid trespassing and adverse impacts on adjacent private lands and sensitive land uses, such as agricultural operations. New trails located in agricultural areas should generally be sited in the public right of way where feasible and should generally avoid running through active agricultural lands or operations. In special circumstances when no other alternatives exist but to route a trail through agricultural lands, such as for a crucial trail gap in a regionally significant route or a longstanding adopted plan, the County will pursue a collaborative effort with the landowner to site the trail in a mutually acceptable location as far as possible from sensitive agricultural operations, preferably along fence or property lines.

3) Revise TRL-1.d to address the location of the Coastal Trail:

TRL-1.d *Establish Regional Trail Connections.* Strive to complete regional trail systems in Marin County, including the Bay Area Ridge Trail, the San Francisco Bay Trail, and the California State Coastal Trail. The proposed alignment of the Coastal Trail will be considered through the process to update the Marin County Local Coastal Program.

4) Add new Trails language to **TRL-2.b** to address eminent threat to livestock:

TRL-2.b *Design, Build, and Manage Trails in a Sustainable Manner.* Incorporate design measures that protect vegetation, protect habitats, and minimize erosion. Suggested measures include:

- Limit grading and vegetation removal.
- Discourage people and pets from entering sensitive habitats or disturbing wildlife through education, signage, enforcement and, as a last resort, fencing.
- Provide vegetative buffers between trails and wetlands or other sensitive habitats.
- Consider using existing roads or trails rather than building new ones when possible.
- Temporarily close trails seasonally when necessary to minimize erosion or resource impacts, or to prevent threats of disease to livestock.

TOPIC 4: AGRICULTURE

Extensive public testimony regarding a variety of agriculture issues was presented during the CWP public review and hearing process. In response, the Planning Commission recommended new and modified text pertaining to several policies and programs.

SUBTOPIC 4A - Agricultural House Size

Due to continuing concerns about the potential impacts of residential development on agricultural lands, such as increased land and operational costs, the need for continuing long-term investments in agricultural improvements, and land use conflicts between non-agricultural residents and commercial agricultural operations, Strong Associates prepared the *Marin County Agricultural Economic Analysis* in November 2003 to evaluate the impact of estate development on the viability of agricultural lands. The report found that:

- Grazing land under Williamson Act contract without residential improvements brings in more income for agricultural leases than the estimated costs of land ownership;

- Residential development can in many cases drive up land ownership costs beyond what agricultural income can cover;
- Land costs in excess of potential agricultural income will, in the long term, be a disincentive to continued agricultural operations; and
- Marin County should develop strategies to avoid the development of agricultural land into non-productive estates.

As a result, the August 2005 Draft Marin Countywide Plan included three options limiting residential building sizes on agriculturally zoned property and a fourth option to convene a working group to prepare criteria and/or standards to be considered for adoption through a future update of the Marin County Development Code (see Attachment 5).

In addition, staff research demonstrated the median agricultural home size is 2,662 square feet with a median building area (inclusive of garage space) of 3,314 square feet on agricultural parcels containing at least 40 acres. Subsequently, the Planning Commission recommended the following language to limit non-agricultural building size on agriculturally zoned property:

AG-1.a *Limit Non-Agricultural Building Size.* Limit non-agricultural development on agriculturally zoned property so that it is consistent with dwelling sizes typically accessory to agricultural production uses, while considering the need for landowner family housing. Limitations for residential development on a parcel shall be based upon the following criteria:

- i. The total floor area of all dwelling units and non-agricultural accessory structures on a parcel shall not exceed an aggregate of 6,000 square feet, except that an aggregate of 8,500 square feet may be allowed in order to protect the long-term productivity of the agricultural land and enable the inter-generational transfer of agricultural lands within existing farm families. Specifically, up to 8,500 aggregate square feet may be considered for agricultural family members where agricultural residences totaling at least 4,000 square feet existed on the site on January 1, 2007. In such cases, the additional 2,500 additional square feet allowance cannot be applied to an existing residence where the addition would result in a structure over 4,000 square feet in size or result in a new structure exceeding 2,500 square feet.
- ii. The total floor area for any single dwelling unit on a parcel shall not exceed 3,000 square feet except as provided herein.
- iii. Agricultural worker housing, up to 540 square feet of garage space for each dwelling unit, agricultural accessory structures, and up to a total of 500 square feet of office space used as a home occupation in

connection with the agricultural operation on the property shall be excluded from the above residential floor area limits.

- iv. Residential development shall not be allowed to diminish current or future agricultural use of the property or convert it to primarily residential use.
- v. Single dwelling units in excess of 3,000 square feet of floor area, but not more than 6,000 square feet of floor area, may be allowed if there is evidence of a bona fide commercial agricultural production operation on the property. In making this determination, the County shall consider the following components within an Agricultural Production and Stewardship Plan: (1) the applicant's history of production agriculture in Marin or the North Bay region; (2) how the long term agricultural use of the property will be preserved; (3) whether agricultural infrastructure, such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities has been established or will enhance the proposed agricultural uses; (4) whether sound land stewardship practices, such as Marin Organic Certification, riparian habitat restoration, water recharge projects, fish friendly farming practices, or erosion control measures have been or will be implemented; and (5) dedication or sale of perpetual agricultural conservation easements be offered voluntarily to ensure continued agricultural production.

The square footage limitations noted in the above criteria represent potential maximum dwelling unit sizes and do not establish a mandatory entitlement or guaranteed right to development.

Issues for further consideration:

Because these issues were comprehensively addressed by the Planning Commission, if the Board is interested in further pursuing revisions to this topic, all four options (or a variation within the range of options previously addressed) may be considered. Furthermore, in response to continued public input, revisions should be considered to clarify the existing practice of regulating home sizes throughout the County in order to ensure that the mass and scale of new structures respects environmental site constraints and neighborhood character.

In addition, it is important to note that all Community Plans will address house size issues - and that the following two Community Plans currently already limit house size as follows:

Indian Valley Specific Plan includes maximum floor area allowances based on lot size ranging from 3,000 square feet to 7,000 square feet.

Tamalpais Area Community Plan, 1992, also provides a maximum floor area based on lot size ranging from 900 square feet to 7,000 square feet.

Toward this end, additional language could be added as indicated below:

DES-4.c Regulate Mass and Scale. Ensure that the mass and scale of new structures respect environmental site constraints and character of the surrounding neighborhood (see DES-3.b), are compatible with ridge protection policies (see DES-4.e), and avoid tree-cutting (especially on wooded hillsides) and grading wherever possible. Community Plans should be amended as necessary to consider regulations concerning home size.

Program **AG-1.a** could also be revised as follows:

AG-1.a Residential Building Sizes in Agricultural Areas. The size of residential structures has been or will be dealt with in Community Plans or Specific Plans. Since most agricultural areas are located outside of community plan boundaries and no specific plans are anticipated in agricultural areas, standards concerning residential building sizes are covered in this program. The primary purpose of this program is to ensure that lands designated for agricultural use do not become defacto converted to residential use, thereby losing the long-term productivity of such lands. It is also a purpose of this program to enable the inter-generational transfer of agricultural lands within farm families so that the long-term productivity of such lands is maintained.

- i. Residential development shall not be allowed to diminish current or future agricultural use of the property or convert it to primarily residential use
- ii. Agricultural worker housing, up to 540 square of garage space for each dwelling unit, agricultural accessory structures and up to 500 square feet of office space used as a home occupation in connection with the agricultural operation on the property shall be excluded from this policy.
- iii. Any proposed residential development above 4,000 square feet shall be subject to design review and must ensure that the mass and scale of new or expanded structures respect environmental site constraints and the character of the surrounding area. Such development must be compatible with ridge protection policies (see DES-4.e) and avoid tree-cutting and grading wherever possible.

Such proposed residential development is also subject to discretionary review. The County shall exercise its discretion in light of the following criteria and for the purpose of ensuring that the parcel does not defacto convert to residential use:

- (1) The applicant's history of production agriculture in Marin or the North Bay Region;
- (2) How the long term agricultural use of the property will be preserved, for example, whether there is an existing or proposed dedication or

sale of a permanent agricultural easements or other similar protective agricultural restrictions such as Williamson Act contract or farmland security zone

- (3) Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities have been established or are proposed to be established;
 - (4) Whether sound land stewardship practices, such as Marin Organic Certification, riparian habitat restoration, water recharge projects, fish friendly farming practices or erosion control measures have been or will be implemented;
 - (5) Whether the proposed residence will facilitate the ongoing viability of agriculture such as through the intergenerational transfer of existing agricultural operations.
- iv. In no event shall a single family residence subject to these provisions exceed 8,500 square feet in size.

The square footage limitations noted in the above criteria represent potential maximum dwelling unit sizes and do not establish a mandatory entitlement or guaranteed right to development.

SUBTOPIC 4B – Other Agricultural Concerns

As previously noted, representatives of the Marin County Farm Bureau and others expressed concerns regarding several agricultural issues during the update of the Countywide Plan. Although several of the concerns raised apparently pertain to long standing disagreements with ongoing land use regulations, staff believes that several other issues could be fully or partially resolved with additional clarifying language. Among the topics discussed were:

- **Subdivision of agricultural lands.** Further subdivision of agricultural lands in Marin County has been relatively rare since the adoption of the Countywide Plan and the related requirement of meeting applicable zoning ordinance findings. Furthermore, the additional subdivision of extensive grazing lands may result in parcel sizes too small to support economically viable operations - or will otherwise contribute to higher per acre costs. As previously noted, land and operational costs in excess of potential agricultural income will likely be a disincentive to continued, long term agricultural operations.
- **Regulations pertaining to the conversion of agricultural land from grazing to row crops as well as agricultural processing rules.** The draft Plan supports small scale agricultural diversification including crop production and the increased processing of agricultural products from within the Marin County “foodshed” to help ensure the continued economic viability of agriculture. This

issue should be further addressed in the update of the Local Coastal Program and the Development Code.

- **Clustering requirements for nonagricultural structures and residences.** The Draft Plan clarifies that nonagricultural structures need not be limited to one single area. Furthermore, clustering requirements do not apply to agricultural production and processing structures and activities.
- **Exempting all agricultural operations and facilities from development standards.** Over the last several years, Marin County has reinforced its commitment to preserving agricultural lands and supporting agricultural production. Amendments approved in the 2003 update of the Development Code clarified our long standing practice of generally not requiring Master Plans or other special zoning permits for most of the predominant agricultural production activities in Marin, including livestock grazing, crop production, commercial gardening, dairy operations, and agricultural accessory activities. In addition, we have established procedures in the Development Code that exempt agricultural accessory structures (barns, silos, etc.), small scale processing and retail operations for agricultural products, and the removal of native trees from special zoning permits that apply to non-agricultural properties. Increased diversification of non-agricultural land uses was also facilitated to provide farmers and ranchers with greater flexibility to augment their farm income.

Agricultural activities such as grazing or row cropping are typically not subject to Streamside Conservation Area and similar setbacks, although the Draft Plan continues to call for barns and similar animal confinement areas to be located away from streams and for the preservation of woody riparian vegetation along streams. Pre-existing, legal structures and uses are not subject to these restrictions.

As a result of these exemptions, most agricultural production activities occurring in Marin are subject to minimal County Development Code regulations; although it is acknowledged that more streamlining is appropriate and that other regulations have resulted in a daunting regulatory environment for agricultural producers. A complete exemption of all agricultural structures and activities from the County's land use regulations is not recommended insofar as it would jeopardize Marin County's ability to implement Countywide Plan policies that have widespread application.

- **Requiring the removal of all invasive exotic species from agricultural land.** It would be completely infeasible and there was no intent to require the removal of all invasive, exotic species from agricultural lands. Additional clarifying language could be helpful in this regard. For example, **BIO-1.7**, *Remove Invasive Exotic Species*, could be revised as follows:

BIO 1.7 Remove Invasive Exotic Plants. Require the removal of invasive exotic species, to the extent feasible, when

considering applicable measures in discretionary permit approvals for non-agricultural development projects, and include monitoring to prevent re-establishment in managed areas.

- **Requiring the merger of contiguously owned agricultural lands.** The involuntary merger of parcels is subject to detailed State regulations. Additional clarifying language could also be helpful in this regard, especially as it pertains to lands already subject to restrictive easements.

For example, **AG-1.c**, *Encourage Merger of Parcels on Lands Protected by Agricultural Conservation Easements*, could be revised as follows:

AG-1.c **Consider Incentives for the Voluntary Merger of Parcels on Lands Protected by Agricultural Conservation Easements.** Consider whether it is appropriate for agricultural conservation easements should to include, but not be limited to incentives for the voluntary merger of contiguously owned agricultural lands. where proper findings can be made.

- **Continuing to require Production and Stewardship Plans.** The Draft Plan clarifies that the preparation of Agricultural Production and Stewardship Plans is intended only for persons lacking a long history in agriculture who are proposing nonagricultural development on their property.
- **Maintain Up to date Special Status Species maps.** The Draft Plan includes a variety of maps that will need to be updated to reflect the most current information, including sensitive species and environmental hazards. These maps are considered a snapshot in time, and the most current information will be used for planning purposes as the maps are continuously revised.

Respectfully submitted:

Alex Hinds,
Director

Attachments

1. Baylands Corridor Maps 2-5a and 2-5b, Options 1, 2, and 3
2. Marin Countywide Plan Trails Plan Map 2-19a – 2-19j: Comparison of the 1994 CWP to the Draft CWP Update
3. Map 2-18 Coastal, Ridge, and Bay Trails
4. Marin Countywide Plan Trails Plan Maps 2-19b and 2-19d
5. Options for Agricultural Home Size Limitations

