

Comment Letters

Dates Received as follows:

April 6, 2018

- Marin Conservation League

April 9, 2018

- North Marin Water District

April 12, 2018

- Inverness Public Utility District

April 13, 2018

- Pacific Legal Foundation
- Marin County Farm Bureau

April 19, 2018

- David Karner
- Robin Furner
- East Shore Planning Group
- West Marin Environmental Action Committee

April 20, 2018

- Don Smith
- SeaDrift Association
- George McLaird
- Carolyn Longstreth
- Rodger Jacobsen

April 21, 2018

- Bob Johnston
- Linda and Lee Meier
- Harriet Moss
- Richard Shupack
- Bob and Cailean Sherman
- Barbara Fram

April 22, 2018

- Jeff Saarman
- Eleanor Lyman
- Joanna French

April 23, 2018

- Stephen and Annie Bowman
- Annette Brands
- Rick Gordon
- Jeff Greenberg
- Jack and Deb Sylvan
- Katharina Sandizell and Barry Smith
- Anne Boswell Bertrand
- Pat Dickens
- Arianne Dar
- Don Marzetta and Cynthia Hester
- Dana Cappiello
- Penny Livingston
- Rozalynd Roos Merrill
- Bolinas Community Public Utility District

April 24, 2018

- Jeff Loomans
- Josie Plaister
- Jaume Pons
- Lokelani Devone
- Nancy Sur
- Paul da Silva
- Morgan Patton
- Paul Reffell
- Kirk Marckwald
- Tom Flynn

Tucker, Thomas

From: b757dad <b757dad@gmail.com>
Sent: Monday, April 23, 2018 10:39 AM
To: MarinLCP; Drumm, Kristin; Liebster, Jack
Subject: Coastal Zone Meeting

[3501 Civic Center Drive, Suite 329](#)
[San Rafael, CA 94903](#)

Dear President Connolly and Members of the Marin Board of Supervisors,

I write as an owner of a house in the Coastal Zone. I oppose adoption of the California Coastal Commission (CCC) staff changes to Amendment 3 and Amendment 7 in Marin's Local Coastal Program Amendments. The Board should either reject the CCC Staff's proposed language or take no action, and retain the existing Local Coastal Plan.

Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act.

Amendment 7 contains provisions that primarily, if not exclusively, relate to the deferred "Environmental Hazards" issues. The Board should not now accept definitions whose meaning and purpose is understandable only in the context of Environmental Hazards provisions that are not now before the Board and not explained in the accompanying materials.

The Environmental Hazards issues were deferred because they drew substantial and broad-based opposition from Marin residents and businesses. Accepting the definitions in Amendment 7 now, out of context, would undercut fair consideration of the Environmental Hazards issues later. Since none of these provisions will go into effect until the Local Coastal Plan is complete, there is no benefit for the Board to act on them now.

Please vote no on the proposed amendments.

Respectfully Yours,

Stephen and Annie Bowman
11 Dipsea Road
Seadrift

Tucker, Thomas

From: Don Smith <dons@lmi.net>
Sent: Friday, April 20, 2018 8:26 PM
To: BOS
Subject: for LCPA hearing 4/24

Dear Supervisors,

I retired to Bolinas in 1999 from a career as an engineer and built my own house here. I am intimately familiar with the Codes and Permit processes from this project and also from my almost two decades of community service for the Bolinas water district (BCPUD), community center, land trust (BCLT), and the homeless. I am a lifelong supporter of environmental protection and a member of Nature Conservancy, Natural Resources Defense Council, and Sierra Club.

I have been following the LCPA process all along and have attended many meetings and hearings to advocate for policies beneficial to our Coast. I commend the Marin Planning Department for their hard work and diligence throughout this long and arduous process. They have conducted an open and interactive process of listening carefully to input from stakeholders and residents, and have crafted amendment language that optimally takes into account this input within the latitude allowed by the Coastal Act. This language would help our farmers make a living and plan for the future, would open up possibilities for affordable housing, and would allow shorefront residents to continue to protect their homes, all while also ensuring the continued protection of the natural Coastal environment that is the jewel of Marin.

Unfortunately, Coastal Commission Staff has not responded in kind. County Staff and stakeholders have explained to them our needs and reasoning in countless meetings and have also testified in numerous hearings before the Commission. The Commission has even chastised its Staff, and has fired its ED for lack of communication and openness. But in the face of all this, CC Staff has repeatedly ignored most County input and has repeatedly inserted into our Amendments its own new language, some of which conflicts with what had been previously agreed upon, and has redlined, to an extreme degree of micromanagement, rewrite after rewrite of the numerous Amendments throughout this inordinately long period of negotiation.

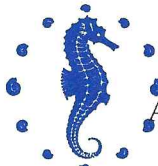
The Coastal Act includes the LCP process in recognition of the fact that different local jurisdictions have differing local needs. As long as a local jurisdiction is proposing regulations that are consistent with the Coastal Act, CC Staff is supposed to accept them, not rewrite them to further some other agenda. These rewrites have consistently ignored the real and sometimes urgent needs of the residents of Coastal Marin. We are struggling to sustain ourselves out here and to hold together viable communities in the face of a regulatory burden already heavier than anywhere else in the State, and in the face of soaring housing costs, and in the face of a huge increase in tourism with its accompanying burdens of parking, trash, septic overflows, emergency calls, and displacement of long-term rentals by STRs.

I fully support that this beautiful coast should be protected and kept accessible to nonresidents. Visitors also help support our local economy. The challenge is how to accommodate visitor needs while keeping life sustainable for residents. The current version of the LCP Amendments comes nowhere close to achieving that balance. Instead, language added by CC Staff imposes new burdensome and costly permit requirements on farmers wanting to merely change crops or irrigation arrangements, and on homeowners needing to repair deteriorating foundations or upgrade their septic systems (the latter LCPA requirements being redundant to SWRCB regulations). CC Staff language prevents downtown property-owners from making a residence out of street-front space even if no viable commercial use can be found (Is vacancy considered preferable?), and disallows density increases in most locales even for desperately needed affordable housing projects.

These new burdens being pressed upon us would hollow out the villages of West Marin and would endanger our historic agricultural economy and the local food that it provides, these ironically being two of the particular features that visitors

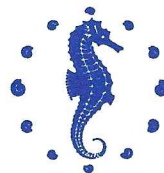
come here to enjoy. To accept these Amendments in their present form would lock us in to decades of oppressive regulations that would be devastating to those who live and work here, whereas rejecting them would give us another chance to get it right. Rejection would be a wake-up call to the CC that they need to hold their Staff to higher standards of due public process, of respect for the needs of local communities, and of consistency with long-accepted interpretations of the Coastal Act. Rejection would also be a signal to the State Legislature that further amendment of the Coastal Act is called for in response to changing conditions—particularly the increases in visitor pressure, housing cost, and sea level. Rejection of the present Amendments would not mean throwing out Marin Planning’s hard work. The language they wrote—the outcome of due public process and careful attention to the Coastal Act—is still there, and can be submitted again at any time, amendment by amendment. This would give us an opportunity to achieve an LCPA that really works for the Marin Coast, whereas caving in now to an ultimatum to take it or leave it all by May 2nd would not only forfeit that opportunity, but would set a terrible precedent that other jurisdictions wanting to amend their LCPs would have to challenge. Marin County should not allow itself to be made the guinea pig for propagating the hidden and unauthorized agenda of Coastal Staff.

Sincerely,
Don Smith
Bollinas



SEADRIFT ASSOCIATION

April 20, 2018



Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Re: Marin County Local Coastal Program Amendment (LCPA)
Public Hearing, April 24, 2018

Dear Members of the Board of Supervisors:

We write on behalf of the Seadrift Association, located in Stinson Beach, and in opposition to the Amendments to the Marin County Local Coastal Program ("LCP") presented to your Board for a vote on April 24th. We urge a No vote on all Amendments as currently constituted.

The Seadrift Association has followed the development of, and submitted numerous comments on the LCP over the course of many years and many drafts. The membership of the Seadrift Association consists of almost 350 property owners whose properties are potentially exposed to sea level rise and related environmental hazards; who benefit from and support the hard work of local farmers and ranchers; and who care deeply about the vitality of our coastal villages. Our membership has closely followed LCP developments, has attended many community events attended by your staff, and has even traveled in large numbers to the November 2016 Coastal Commission hearing that resulted in the Amendments before you. We are extremely involved, and extremely concerned.

We sincerely believe that your staff has done an excellent job in presenting thoughtful and balanced Amendments to the LCP. We also know that at every stage of the process, their hard work has been largely obviated by a Coastal Commission staff unwilling to compromise. We see no evidence nor remaining hope that this intransigence will suddenly be reversed, and believe that if passed these Amendments will simply result in years of additional fruitless negotiations – and almost certainly in eventual abandonment of the entire process. Even the relatively simple seven required modifications to the Amendments before you took from November 2016 to the present time to negotiate. They remain unresolved. Any hope that the far more complex and contentious disputes over the Environmental Hazards chapter will somehow resolve themselves thereafter is wishful thinking. Wishful thinking likely to result in nothing more than substantial additional time and money wasted by the County and its citizens.

Absolutely critical and much more narrow amendments to the LCP are urgently required. It is time to abandon this fruitless process, and proceed to solve the issues we need our County to address for us as rapidly as possible.

Very truly yours, on behalf of the Board of
the Seadrift Association,


Kiren Niederberger, General Manager

Tucker, Thomas

From: Jeff Saarman <jeff4562010@gmail.com>
Sent: Sunday, April 22, 2018 3:19 PM
To: BOS
Subject: Marin LCP

Stop thinking the coastal commission is a fair player. You have negotiate in good faith for the last 10 years....it is not going to change with a Coastal Commission change Staff. The CC should be working on new developments not threatening private property rights.

I urge you to protect our collateral, start a new chapter in your negotiations with CC and vote:

1. That none of the amendments be approved and
2. To halt amendment process including Environmental Hazards.

The coastal commission is breaching into our private property rights for which we want you to hear that this is not OK. We look to you for support to protect our assets and communities.

I can not believe I have to write this! WoW your vote can make my retirement simply collateral damage. When you take such risks it has grave consequences. And if it turn out you are we're wrong you hopefully feel the damage you created. What good is a "I am sorry" when we lose our collateral and communities. What Good is living when all that is gone?

Do not place us on your chopping block. Please hear us. Do NOT.

Jeff



April 13, 2018

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

VIA EMAIL kdrumm@marincounty.org

Re: Marin County Local Coastal Program Amendments

Dear Honorable Supervisors:

Willie Benedetti, Pacific Legal Foundation, and the Marin County Farm Bureau submit these comments on the proposed Marin County Local Coastal Program amendments.

Pacific Legal Foundation is the nation's oldest public interest property rights foundation. Over the last several years, PLF has closely followed Marin County's Local Coastal Program amendment process. PLF attorneys have submitted comment letters and appeared in person at Marin County and California Coastal Commission hearings to highlight constitutional and other legal infirmities in provisions of the Local Coastal Program Land Use Policy Amendments and the Implementing Program. PLF is also currently representing Willie Benedetti—a Marin County farmer for over 45 years—in pending litigation as to portions of these amendments. Compl. and Pet. for Writ of Admin. Mandate, *Benedetti v. County of Marin*, No. CIV1702572 (Super. Ct. of Marin Ctny., July 14, 2017).

The Marin County Farm Bureau is a voluntary membership organization that represents nearly 300 farm and rural families in Marin County. MCFB is committed to preserving and improving production agriculture in Marin County through responsible stewardship of natural resources. As an organization that works at the local, state, and national level to improve legislation and regulations that could be detrimental to agriculture, the MCFB has closely watched and actively participated in the Marin County Local Coastal Program amendment process, and remains committed to protecting the livelihoods of its members.

At its March 20, 2018, meeting, the Board considered various options with regard to several modifications that Coastal Commission staff had made to proposed amendments to Marin County's Local Coastal Program. Those options included accepting the

modified amendments, accepting the amendments while also passing resolutions of intent to submit further clarifying amendments, or rejecting the amendments.

Accepting the amendments—even with resolutions of intent to amend—potentially will subject Marin County coastal landowners to unconstitutional limitations on their property rights, with no certainty of when—or if—ameliorating amendments will be adopted. Marin County landowners will face tremendous uncertainty under the new amendments, and the County may face additional legal challenges in the interim. Willie Benedetti, MCFB, and PLF urge this Board to reject the amendments.

Limitation of Development Rights

The final Implementing Program contains provisions that significantly reduce landowners' development rights. The existing certified Local Coastal Program allows landowners to seek approval through a Conditional Use Permit or Master Plan process to build additional residential units beyond a primary dwelling unit. The currently established C-APZ-60 zoning allows for the development of one additional residential house per 60 acres. Under the new Land Use Plan, only agricultural dwelling units—not single-family residences—will be allowed within the C-APZ zone. Moreover, Section 22.32.024(B) of the proposed Implementing Program limits the number of total structures to three agricultural dwelling units per “farm tract.” And Section 22.130.030 defines “farm tract” as “all contiguous legal lots under common ownership.”

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

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

Even for lots that retain some economically viable use, the destruction of previously held development rights may require compensation under *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978) (establishing the multi-factor analysis for determining when regulation effects a compensable taking). In fact, the California

Court of Appeal has held that such a significant downzoning of property may effect a compensable taking. *See Avenida San Juan Partnership v. City of San Clemente*, 201 Cal. App. 4th 1256 (2011) (finding a regulatory taking where a change in zoning definition reduced development rights of a 2.85 acre parcel from four dwellings per acre to one dwelling per twenty acres).

This county-wide diminution of development rights is not only constitutionally questionable, it is unnecessary. Many ranchers and farmers in Marin County have voluntarily transferred conservation easements that protect agriculture and restrict development while largely preserving their development rights. However, the Program's definition of farm tract, combined with its unit cap on development, will extinguish these rights for many landowners, without providing them any compensation. Willie Benedetti, MCFB, and PLF urge the Board to reconsider this radical unsettling of the reasonable investment-backed expectations of ranchers and farmers in Marin County.

Affirmative Agricultural Easements and Restrictive Covenants on the Division of Land

As noted above, PLF is involved in pending litigation on behalf of Mr. Benedetti, a longtime Marin County farmer, as to several provisions of the previously adopted land use plan amendments. The Implementing Program contains additional language that exacerbates the legal deficiencies of those amendments.

For example, Section 22.32.024(A) of the final Implementing Program requires that each "agricultural dwelling unit" be "owned by a farmer or operator" that is "directly engaged in agriculture on the property." This mandate will force property owners to remain in a commercial agricultural market forever, even if continued commercial agricultural use becomes impracticable.

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

PLF has already successfully challenged a less onerous affirmative easement permit condition, one that did not even require commercial use. *See Sterling v. California Coastal Commission*, No. CIV 482448 (Cal. Sup. Ct. June 18, 2010). In *Sterling*, Judge George A. Miram of the San Mateo County Superior Court held that an affirmative agricultural easement on 142 acres, imposed as a permit condition for the development of a single acre, amounted to an unconstitutional land-use exaction, in violation of the rules laid down by the U.S. Supreme Court in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

Nollan and *Dolan* require an essential nexus and rough proportionality between the permitting condition and the public impact of a proposed development. Conditioning a permit for a single dwelling on the perpetual use of the property for commercial agricultural purposes fails the essential nexus test, because a requirement for perpetual commercial agricultural use is not closely related to the impact of building a single dwelling. This is especially true where potential dwellings might be desired on sites that are not currently in agricultural use, or that may not even be suitable for such use. Similarly, because the affirmative easement condition demands far more concessions than those needed to relieve the public impact resulting from the construction of a single dwelling, it runs afoul of *Dolan*'s rough proportionality requirement. Thus, the proposed agricultural easement requirement will not survive the heightened scrutiny of permitting conditions applied under *Nollan* and *Dolan*. The same result will obtain with respect to the restrictive covenants against further division of legal lots that will be required as a condition of development. *See* Sections 22.32.024(J)(4) & 22.32.025(B)(4). A permanent restrictive covenant against the subdivision of land placed on a large legal lot as a condition for construction of a single dwelling will fail the same nexus and proportionality standards of *Nollan* and *Dolan*. Much like the affirmative agricultural easement—and especially in conjunction with it—this requirement likely constitutes an unconstitutional exaction.

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

Definition of Ongoing Agriculture

MCFB has previously commented on the uncertainty that the staff-modified definition of “ongoing agriculture” will create for Marin County farmers and ranchers by exempting only “existing agricultural production activities” from coastal development permit requirements. *See, e.g.*, MCFB comment letter of October 28, 2016. The definition leaves open the possibility that standard agricultural practices could be subjected to a costly and time-consuming coastal development permit process, one that could render traditional agricultural practices economically infeasible.

Commercially viable farming and ranching often requires flexibility to respond to shifting market conditions from year to year, or even season to season. The Commission staff’s modified language will likely leave farmers and ranchers unsure of which practices may require a coastal development permit, and could shift the burden onto agricultural landowners to show which uses constitute “existing agricultural production activities” within Marin County. Such a course would conflict with the Coastal Act’s policy to preserve coastal agriculture. *See* Pub. Res. Code §§ 30241, 30242.

The Commission staff’s modified language is representative of a growing trend of acknowledging no limiting principle to the agency’s jurisdiction over “development,” when a project is alleged to result in a “change in intensity of use and access” of land within the coastal zone. *See, e.g., Greenfield v. Mandalay Shores Cmty. Ass’n*, No. 2D CIV. B281089, 2018 WL 1477525 (Cal. Ct. App. Mar. 27, 2018) (holding that a ban on short term rentals in a coastal community could constitute a change in intensity of access justifying issuance of a preliminary injunction); *and Surfrider Found. v. Martins Beach 1, LLC*, 14 Cal. App. 5th 238 (Ct. App. 2017) (holding that closing a paid access road on private property constituted a change in intensity of access requiring a coastal development permit), *review denied* (Oct. 25, 2017), *pet. for cert. docketed* (Feb. 26, 2018).

The difficulty of establishing which uses are “existing agricultural production activities” is likely to create confusion about when coastal development permits are required. Worse, the time and expense involved in obtaining a coastal development permit when required could substantially injure Marin County agriculture.

Definition of Existing Development

Commission staff has also included a definition of “Existing Development” that would, among other things, change the County’s application of Coastal Act section 30235 so as to deny future permits for seawalls to homeowners with homes or other structures

built after January 1, 1977, even when such permits are necessary to defend their homes against erosion. Such a definition is flatly inconsistent with longstanding practice, as well as California's constitutionally guaranteed right to protect property. Cal. Const. art. I, § 1 (stating that protecting property is an inalienable right of all people).

Historically, the term "existing structures" has been understood by both property owners and the Commission to mean structures existing at the time a permit application is made for a seawall. *See* Br. of Resp. Cal. Coastal Comm'n, *Surfrider Found. v. Cal. Coastal Comm'n*, No. A110033 (1st. Dist. Ct. App. Jan. 2006), at 20 ("[T]he Commission has consistently interpreted section 30235 to refer to structures that exist at the time of the application."). Although the Commission has recently acted inconsistently with that understanding, untold numbers of permits have been granted over the years for structures built in reliance on the Commission's longstanding position. The definition pressed on Marin County by Commission staff during the review of the County's LCP amendment is a radical change that is likely to draw litigation.

PLF is unaware of any appellate decision interpreting the term "existing development" in Section 30235. There is not, therefore, available binding precedent to settle that meaning, and thus one can expect litigation by aggrieved property owners affected by the proposed changed definition. Because the changed definition will surely result in damaged structures, it will likely subject Marin County to litigation concerning the meaning of Section 30235 and, ultimately, liability for the resulting property damage.

The Commission has supported recent legislative efforts to alter the definition of existing development within the Coastal Act, but such efforts have, to date, been unsuccessful. *See, e.g.*, AB 1129, 2017 Assemb. (Cal. 2017) (would have amended the Coastal Act to define "existing development" as development that existed as of January 1, 1977, but the bill died on the inactive file). The Commission staff has now sought to force this unpopular policy preference on local governments throughout the coastal zone by the device of staff modifications to coastal programs and amendments that are submitted to the Commission for certification. The County should not accede to the Commission staff's wrongheaded and illegal demands.

Conclusion

MCFB has worked to preserve the livelihood of farmers and ranchers in Marin County—and all of California—since 1923. Willie Benedetti has farmed within Marin County for over 45 years. PLF has fought for the property rights of all Americans for

over four decades. Willie Benedetti, PLF, and MCFB all request that the Board give close consideration to the objections raised in this comment letter. The proposed Local Coastal Program Amendments and Implementation Program place severe—and potentially unconstitutional—burdens on the property rights of Marin County landowners, with many of these burdens falling principally on the agricultural community.

Accepting the amendments while simultaneously passing a resolution of intention to further amend is not an adequate course of action, because it will subject Marin County residents to further uncertainty and will open the County itself up to potential legal challenges and liability. Willie Benedetti, MCFB and PLF urge the Board instead to reject the current amendments and engage in a renewed amendment process that respects the property rights all Marin County coastal landowners and acknowledges the market realities of agriculture which Marin County ranchers and farmers face.

Sincerely,



JEREMY TALCOTT
Pacific Legal Foundation
WILLIE BENEDETTI
Willie Bird Turkeys
KEVIN LUNNY
Marin County Farm Bureau

cc: Brian Case, bcase@marincounty.org
David G. Alderson, David.Alderson@doj.ca.gov

Attachment

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9 Attorneys for Plaintiffs and Petitioners

10

11 SUPERIOR COURT OF CALIFORNIA
 12 COUNTY OF SAN MATEO
 13

14 DAN STERLING and DENISE STERLING,
 15 Plaintiffs and Petitioners,
 16 v.
 17 CALIFORNIA COASTAL COMMISSION,
 18 Defendant and Respondent.

No. CIV 482448

Dept. 28

**[SECOND REVISED
 PROPOSED] STATEMENT
 OF DECISION**

19

20

INTRODUCTION

21 This case involves the California Coastal Commission's (CCC) attempt to require
 22 applicants (Sterlings) for a coastal development permit for one home to dedicate the remainder of
 23 their land—about 140 acres—to active agricultural use, forever. This condition demands that the
 24 Sterlings deed an easement to this effect to the People of the State of California. The Sterlings seek
 25 judgment on a motion for writ of mandate, invalidating the condition under Code of Civil
 26 Procedure § 1094.5.

27 Oral argument was held on February 25, 2010. Mr. J. David Breemer, of Pacific Legal
 28 Foundation, appeared on behalf of Petitioners Dan and Denise Sterling. Deputy Attorney General

ENDORSED FILED
SAN MATEO COUNTY
 JUN 18 2010
 Clerk of the Superior Court
 BY ~~DANIEL CHIA~~
 DEPUTY CLERK

1 Hayley Peterson appeared on behalf of Respondent California Coastal Commission. The Court has
2 considered the pleadings and arguments, and now issues the following decision:

3 **I**

4 **BACKGROUND**

5 **A. Facts and Local Administrative Process**

6 Dan and Denise Sterling live in San Mateo County (County) with their four children. In
7 1997, the Sterlings purchased a largely unimproved 143-acre parcel of land (the Property) in
8 El Granada, California, in the unincorporated area of the County.

9 The Property is comprised of sloping, dry, and sparsely vegetated land. Only small pockets
10 of flat land near a creek, amounting to 10 acres in total, are considered prime agricultural soil.
11 Neither this area nor any other part of the Property was used for crops at the time the Sterlings
12 acquired it. There is evidence in the record that the Property cannot be viably farmed.

13 Recent owners, including the Sterlings, have leased upland areas of the Property to nearby
14 ranchers for grazing 10 head of cattle. This arrangement is not for profit, but merely a mutually
15 beneficial agreement by which the cattle owners get pasture, while the owner receives grazing that
16 reduces fire hazards on the property.

17 The Sterlings bought the Property with the intent to build a permanent family home. Soon
18 after acquiring the land, the family moved into a small, preexisting mobile home. The mobile had
19 been placed on the lower, flatter portions of the Property by some unknown person who owned the
20 land prior to the Sterlings. The Sterlings planned on using the mobile home as temporary quarters
21 as they built a larger house.

22 Under the County's land use code, the Property is zoned for Planned Agricultural
23 Development (PAD). This zoning classification conditionally permits residential homes, the
24 allowable number depending on amount of acreage. Due to its size, the Sterlings' Property is
25 entitled to two density credits; *i.e.*, two homes.

26 In 2000, the Sterlings applied to the County to subdivide their land into two parcels, one
27 large and one small, and to build a 6,456-square-foot home on the larger proposed parcel. Five

28 ///

1 years later, the Planning Commission denied the project, based primarily on objections to
2 subdivision of the Property.

3 The Sterlings then abandoned their planned subdivision and simply sought approval of one
4 home. They proposed the home on a flat area south of, and set back from, the creek. This area was
5 and is not used for agriculture. As part of their application, the Sterlings submitted an agricultural
6 management plan. Their plan stated that they desired to continue voluntarily grazing 10 head of
7 cattle on about 1/3 of the Property, through a lease arrangement with a nearby rancher. The County
8 unanimously approved this revised plan, finding it was consistent with the Local Coastal Program.
9 Although approval was conditional, the County did not require the Sterlings to dedicate any kind
10 of agricultural easement.

11 **B. Coastal Commission Proceedings**

12 Soon after the County approved the Sterlings' home plans, the CCC appealed the County
13 decision to itself. No hearing was set on the issue for two years. During this time, the Sterlings
14 continued to live in the small, preexisting mobile home. While discussing the project with the
15 CCC staff, the Sterlings offered two potential 9,515-square-foot sites, rather than one, for their
16 proposed home. The Sterlings specifically proposed an alternative to the County- approved "South
17 Site." This new "North Site" was located on the mobile home pad north of the creek, in an area
18 characterized by prime soil.

19 When the CCC refused to hold a hearing after two years, the Sterlings threatened to file a
20 suit to compel one. The CCC staff subsequently set a final hearing on February 5, 2009. In so
21 doing, the staff recommended that the CCC not consider the new North Site. The CCC staff report
22 and hearing thus focused solely on the County-approved "South Site."

23 The staff recommended that the CCC approve the Sterlings' proposed home on the South
24 Site, subject to approximately 11 new conditions, and 32 conditions previously required by the
25 County. One of the new conditions recommended by CCC staff was that the Sterlings dedicate to
26 the public an "affirmative" agricultural use easement on all of the Property lying outside a
27 10,000-square-foot home building area. This condition specifically provided, in part:

28 ///

1 “All areas of the Property [except for the 10,000 square foot development area and
2 driveway] shall at all times be maintained in active agricultural use;”

3 the Sterlings must, as permittees, “either personally conduct agriculture on all their
4 land or enter into a lease with a third party willing to engage in agricultural use on
5 the land;”

6 “[Prior to issuance of the coastal development permit], the applicants [the Sterlings]
7 shall dedicate an agricultural conservation easement to a public agency or private
8 association approved by the [Commission] Executive Director:”

9 the “easement deed shall run with the land in favor of the People of the State of
10 California . . . and shall be irrevocable.”

11 After hearing and considering the staff recommendation, the CCC unanimously voted to
12 approve the Sterlings’ permit according to staff recommendation and conditions, including the
13 foregoing affirmative agricultural condition. The CCC found that the condition was justified under
14 the County LCP as an alternative to denying the Sterlings’ permit. It also made legal conclusions
15 that the agricultural easement condition was consistent with the constitutional standards of
16 *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*,
17 512 U.S. 374 (1994).

18 On March 25, 2009, the Sterlings filed a verified Petition for Writ of Administrative
19 Mandate under Code of Civil Procedure § 1094.5 and Complaint for Declaratory Relief. The
20 petition for mandate alleges that CCC lacks jurisdiction and authority to impose the affirmative
21 agricultural easement condition under the LCP and that the condition is unconstitutional as a taking
22 of private property. The parties subsequently stipulated to hearing the mandate cause of action
23 first.

24 II

25 STANDARD OF REVIEW

26 This Court interprets regulations and ordinances on a *de novo* basis. *Schneider v. Calif.*
27 *Coastal Comm’n*, 140 Cal. App. 4th 1339, 1343-44 (2006) (“Where jurisdiction involves the
28 interpretation of a statute, regulation, or ordinance, the issue of whether the agency proceeded in
excess of its jurisdiction is a question of law.”); *Burke v. Cal. Coastal Comm’n*, 168 Cal. App. 4th
1098, 1105-06 (2008).

///

1 A claim that an administrative decision amounts to an unconstitutional taking of property
2 is typically a mixed question of law and fact. *Ali v. City of Los Angeles*, 77 Cal. App. 4th 246
3 (1999). When a constitutional issue hinges on undisputed findings, the questions are legal and
4 reviewed de novo. *Aries Dev. Co. v. Calif. Coastal Zone Conservation Comm'n*, 48 Cal. App. 3d
5 534, 546 (1975); *Liberty v. Cal. Coastal Comm'n*, 113 Cal. App. 3d 491, 502 (1980).

6 III

7 THE AFFIRMATIVE AGRICULTURAL EASEMENT IS AN 8 UNCONSTITUTIONAL TAKING OF PRIVATE PROPERTY

9 The parties disagree as to whether the CCC has authority and jurisdiction under the County
10 LCP—whose rules the CCC must apply here—to impose the agricultural easement condition on
11 the Sterlings. The Court believes the CCC may have jurisdiction. However, the Court need not
12 conclusively decide this issue, because even if the active agriculture easement is authorized by the
13 LCP, the condition is invalid as an unconstitutional taking of private property.

14 A. The *Nollan* and *Dolan* Takings Tests

15 In the land use permitting arena, the controlling constitutional “takings” decisions are
16 *Nollan* and *Dolan*. Together, this Supreme Court jurisprudence requires “proof by the local
17 permitting authority of both [1] an “*essential nexus*” or relationship between the permit condition
18 and the public impact of the proposed development, and of [2] a “*rough proportionality*” between
19 the magnitude of the [] exaction and the effects of the proposed development.” *Ehrlich v. City of*
20 *Culver City*, 12 Cal. 4th 854, 860 (1996) (emphasis added). The affirmative agricultural easement
21 condition fails both prongs.

22 1. The *Nollan* “Nexus” Test

23 In *Nollan*, the Supreme Court held that land use agencies may not use their permitting
24 powers as an opportunity to exploit property owners by demanding concessions from them in
25 exchange for development permits. See *Nollan*, 483 U.S. at 836-37; *Surfside Colony, Ltd. v. Cal.*
26 *Coastal Comm'n*, 226 Cal. App. 3d 1260, 1269 (1991). *Nollan* held that a permitting authority can
27 require a property owner to dedicate real property to public use in exchange for a permit only when
28 the condition serves the same purpose, and remedies the same harm, as outright denial of the

1 permit. *Ehrlich*, 12 Cal. 4th at 860. This standard requires the government to show a direct
2 “relationship between the permit condition and the public impact of the proposed development.”
3 *Id.* at 860.

4 *Nollan* emphasized that conditioning a permit on property owner concessions unrelated to
5 the proposed project is problematic and unconstitutional because it suggests ““an out-and-out plan
6 of extortion.”” *Id.* (citation omitted).

7 In *Ehrlich*, 12 Cal. 4th 854, the California Supreme Court accepted *Nollan*’s rationale and
8 adopted the “nexus” test as a limit on permitting authorities in California. *Ehrlich*, 12 Cal. 4th
9 at 860 (requiring a “relationship between the permit condition and the public impact of the
10 proposed development”). *Ehrlich* emphasized that the *Nollan* “nexus” test imposes a heightened
11 level of constitutional scrutiny. *Id.* at 866, 868, 871 n.7; *Surfside Colony*, 226 Cal. App. 3d at 378.

12 Here, the CCC imposed the affirmative agricultural easement condition on the Sterlings as
13 an alternative to permit denial. It is not clear, however, that the easement condition substantially
14 serves the same purpose as denial.

15 The Sterling home site is not in active agricultural use. Therefore, if a permit were denied,
16 the homesite would remain in a raw state that would *potentially* allow future agricultural use.
17 Permit denial would not cause any actual agricultural use to occur. On the other hand, the CCC’s
18 affirmative agricultural easement condition does. It imposes *actual* agricultural activity, rather
19 than simply ensuring agricultural potential. The condition therefore serves a different public
20 purpose from permit denial; while denial might advance preservation of agriculturally suitable land,
21 the condition institutes actual agricultural use. The disconnect between the public interests served
22 by permit denial and those served by the affirmative agricultural easement suggests the condition
23 unconstitutional. *Nollan*, 483 U.S. at 837, 841-42.

24 Put differently, the affirmative agricultural easement condition fails the *Nollan* test because
25 it is not related to the impact of the Sterling home. Because the Sterlings’ home is to be built on
26 a small area of their land that is not in active agricultural use, it will not take away any active
27 agriculture. The affirmative easement does not mitigate the actual impact of the home, which is
28 simply that the one acre of land would be taken out of potential, not actual, agricultural use. There

1 is no “relationship between the permit condition [requiring active agricultural activity] and the
2 public impact of the proposed development [no loss of agricultural activity].” *Id.* at 860. Since
3 there is insufficient evidence of a “close connection between the burden [caused by the
4 development] and the condition,” as required by *Nollan*, the condition is therefore unconstitutional.
5 *Surfside Colony*, 226 Cal. App. 3d at 378; *Nollan*, 583 U.S. at 838; *Rohn v. City of Visalia*,
6 214 Cal. App. 3d 1463, 1475-76 (1989).

7 **2. The *Dolan* “Rough Proportionality” Test**

8 Even if the affirmative agricultural easement condition could satisfy *Nollan*, it fails the
9 *Dolan* test. Under *Dolan*, the government must show its condition bears “rough proportionality”
10 in both “*nature and extent* to the impact of the proposed development.” *Dolan*, 512 U.S. at, 391
11 (emphasis added); *Ehrlich*, 12 Cal. 4th at 879-80.

12 A permit condition fails *Dolan*’s “roughly proportionality” standard if it demands more
13 concessions (in nature or extent) from a property owner than needed to alleviate the public impact
14 emanating from a project. *Dolan*, 512 U.S. at 393; *Liberty*, 113 Cal. App. 3d at 502. Here, the
15 easement runs afoul of *Dolan* because it imposes demands that go beyond addressing the only
16 arguable impact of the Sterlings’ home—taking away a small area of idle land that could be
17 potentially used for agriculture. The CCC demanded permanent institution of actual agricultural
18 uses to mitigate a purported loss of potential agricultural land. The easement is not proportional
19 in nature. *Dolan*, 512 U.S. at 393; *Liberty*, 113 Cal. App. 3d at 502.

20 The affirmative agricultural easement also fails *Dolan*’s rough proportionality test in scope
21 and extent. The Sterlings’ home takes up less than an acre. The CCC’s easement condition takes
22 142 acres, requiring agricultural activity forever on behalf of the public, and transferring all the
23 Sterlings’ development rights to the public. It is flat out unconstitutional to require 142 acres to
24 mitigate a perceived loss of one acre.

25 The CCC nevertheless argues that the agricultural easement condition is constitutionally
26 justified because the Sterlings already engage in voluntary and limited cattle grazing. This
27 contention is off point.

28 ///

1 The Sterlings' current grazing plan—allowing 10 head of cattle on 1/3 their land—is
2 entirely voluntary and could be terminated at any time by either the Sterlings or the rancher to
3 whom they lease the grazing rights. The CCC cites no authority holding that a property owner's
4 decision to *voluntarily* engage in an activity allows the government to impose a permit condition
5 making the use mandatory, especially when the mandatory use is unrelated to the proposed
6 development. There is a major difference between a voluntary use of land and one that is made
7 mandatory by the government for a public purpose, forever. The added burden on the Sterlings is
8 irreconcilable with *Nollan* and *Dolan*.

9 Further, CCC affirmative agricultural easement condition is much more burdensome in
10 substantive scope than the Sterlings' voluntary grazing plan. The CCC condition grants an interest
11 in the Sterlings' real property¹ to the People of the State of California; one that wipes out the
12 Sterlings' development right. Conversely, the Sterlings' voluntary grazing plan leaves their
13 development rights—including the possibility of another home for the Sterlings' children—in the
14 Sterlings' hands. And because the CCC easement grants an interest in the Sterlings' real property
15 to another—a public or quasi-public entity—that outside entity acquires the right to “monitor” the
16 Sterlings and their property. Under the voluntary plan, they keep their privacy. The CCC's
17 permanent affirmative agricultural easement condition is not a proxy for, or related to the Sterlings'
18 voluntary grazing of 10 head of cattle.

19 The CCC repeatedly suggests that the easement condition is justifiable as a means to protect
20 agriculture. This misses the point of *Nollan* and *Dolan*. When a condition is not properly tailored
21 to the development, the general interest it purportedly advances cannot preserve it. *Dolan*,
22 512 U.S. at 387; *Ehrlich*, 12 Cal. 4th at 868; *Surfside Colony, Ltd. v. California Coastal Comm'n*,
23 226 Cal. App. 3d 1260 (“While general studies may be sufficient to establish a mere rational
24 relationship between [a legitimate interest and condition], *Nollan* requires a ‘close connection’
25 between the burden and the condition.”).

26
27
28 ¹ An easement is a real property interest. 12 Witkin, Summary 10th Real Property, § 382, at 446 (2005).

1 Protecting agriculture is a valid governmental goal. But the means chosen here by the CCC
2 to achieve that goal—imposing the affirmative agricultural easement on the Sterlings—cannot pass
3 constitutional muster because they are neither (1) clearly nor (2) proportionately connected to the
4 impact of the Sterlings' home. The easement condition is irreconcilable with *Nollan, Dolan* and
5 the Constitution, and must be set aside. The petition for writ of mandate is granted.

6
7 DATED: 6/17/10.

8 **GEORGE A. MIRAM**

9 HONORABLE GEORGE A. MIRAM
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**NORTH MARIN
WATER DISTRICT**

April 9, 2018

999 Rush Creek Place
P.O. Box 146
Novato, CA 94948-0146

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Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Via Electronic Mail: BOS@marincounty.org / marinLCP@marincounty.org

RE: Marin County Local Coastal Program Amendment

Dear Supervisors:

The Marin County coastal municipal water systems have unique challenges before them to ensure our communities have safe drinking water and adequate fire protection. The Coastal Permit process needs to recognize this and provide consideration to streamline the permitting process. Our water systems have aged infrastructure needing replacement, may have limited fire water storage that needs to be upgraded, and aged redwood tanks that are fire and earthquake damage prone needing replacement.

These critical lifeline infrastructure projects (and others) should have a streamlined permitting process that spends public monies effectively. Per the California Code Title 22, Division 4, under the California Environmental Quality Act, many water system projects are Categorically Exempt Class 2 or 3. It would be helpful if the Coastal Permit process mirrored the Exemptions allowed for in the CEQA process.

One particular area of concern is the replacement of redwood tanks. The 1995 Mt. Vision fire caused the redwood potable water tank (North Marin Water District service area) at the top of Drakes View Drive to be destroyed by fire. The Inverness Public Utility District has a Capital Improvement Program (CIP) to replace all six of the remaining redwood tanks with steel tanks. Similarly, the North Marin Water District has an ongoing CIP program to replace all remaining redwood tanks. There are limited tax payer monies available to provide for replacement of key infrastructure crucial to our coastal water systems. The LCP permitting process should be amended to reflect the replacement of this important infrastructure in the coastal permitting process to reduce overall project cost and schedule.

The undersigned water districts respectfully request that the Local Coastal Program amendment provide the County planners with a means to streamline the Coastal Permit process, particularly for critical lifeline infrastructure such as water systems. This would include the ability to grant a de minimis waiver if there are no adverse impacts. An exemption should allow for an increase in storage of up to 10% or that required for Marin County fire protection goals. In a high fire area, this storage is important. Fees for this permit application (if the de minimis waiver is granted) would be waived.

The current LCP updates do not address municipal public water system concerns with already overly complex and burdensome permitting requirements.

Thank you for your consideration.

Signed:

General Manager
North Marin Water District

Muir Beach Community Services District
Inverness Public Utility District

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DIRECTORS: JACK BAKER • RICK FRAITES • MICHAEL JOLY • STEPHEN PETTERLE • JOHN SCHOONOVER

OFFICERS: DREW MCINTYRE, General Manager • KATIE YOUNG, District Secretary • DAVID L. BENTLEY, Auditor-Controller • ROCKY VOGLER, Chief Engineer

Tucker, Thomas

From: george@mclaird.com
Sent: Friday, April 20, 2018 9:23 AM
To: BOS
Subject: LCP

George McLaird would like information about:
Please reject LCP update.

See: Today's IJ, Marin voice
Coastal plan update will destabilize Marin ag economy
By Peter Martinelli



April 6, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 339
San Rafael, CA 94903

Via electronic mail: BOS@marincounty.org/marinLCP@marincounty.org

Subject: Recommend continuing revisions for Agricultural Provisions in the Marin County Local Coastal Program Amendment, Board of Supervisors Hearing, April 24, 2018

Dear Supervisors:

MCL is grateful for the opportunity to provide the following comments and recommendations for your consideration regarding the Marin County Local Coastal Program Amendment (LCP). MCL has participated actively in the process leading up to your hearing on April 24, 2018 and recognizes the significant effort and inclusive process that has been led to arrive at the Land Use Policy and Implementation Program that you are being asked to approve. This includes MCL's facilitating community meetings to explore the full range of views on particular issues with Community Development Agency and California Coastal Commission Staff. It also includes providing analysis and recommendations at numerous steps of the process to the Marin County Planning Commission, your Board, and the California Coastal Commission.

Given this considerable effort and the significant progress made on many issues, MCL does not take lightly voicing its concern for and disagreement with sections in the Implementation Program and specifically selected language around agriculture in the Coastal Commission Revised findings dated July 14, 2017. Until that point, MCL had voiced its support of the proposed solutions and language in the LCP and even communicated this to the California Coastal Commission in our letter dated October 20, 2016 stating:

"MCL wishes to convey its recommendation for Commission approval of the LUP and IP as proposed by the County of Marin for: 1) Agriculture Ongoing; 2) Retail Sales; 3) Processing; and 4) Inter-generational housing. In all four cases, County of Marin staff has developed carefully crafted performance measures and restrictions that will allow for these components to support the significant contribution Marin's family ranches and farms make in protecting Coastal Marin from development. Combined, they provide the individual agricultural producer and relevant local County of Marin departments the ability to make critical and real-time farming decisions, exercise entry-level scale for agricultural diversification, and house more than one farm family generation, doing it in a way that simultaneously protects Environmentally Significant Habitat Areas, safeguards against traffic and other operational impacts, and sets a finite limit of 27 additional housing units. In these four areas, MCL supports the County of Marin's proposed LUP and IP."

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WEB: marinconservationleague.org

ADDRESS: 175 N. Redwood Dr., Ste. 135
San Rafael, CA 94903-1977



Regrettably, many of the revisions approved by the CCC have impacted the clarity for both the agricultural community and County of Marin staff to achieve this. As a result, MCL respectfully requests that you give serious consideration for continuing efforts to revise and improve those respective sections, returning the earlier clarity and removing the introduced ambiguity that is now in the version before you. In particular, MCL recommends that you not approve the language and sections around:

- “Ongoing Agricultural Activities” Versus “Development”: Marin County Community Development staff did a masterful job of listening to the concerns of the agricultural and environmental communities in crafting definitions of “ongoing agricultural activities” and “development.” MCL supported strongly the resulting provisions, including the clear definition of what would NOT constitute “agriculture ongoing,” based on objective criteria for determining intensification of water (irrigation installation) and land modification (e.g., terracing, > average 15% slope), or development for vineyard or cannabis production. “The definition of Grading” is adequately conditioned, as in Section 22.130.030 of the IP that was approved by the Coastal Commission on November 2, 2016. This and corresponding language provided people engaged in agriculture in Marin County the ability to adapt to rapidly changing climate and economic factors, while ensuring that our natural environment and resources are protected. The revisions made through the Coastal Commission and Staff findings of July 14, 2017 have introduced ambiguity for farming and ranching activities that MCL does not support.

To close, we offer as an underpinning to these recommendations, the goal of MCL’s Agricultural Policy Statement: “To continue to support the role Marin’s agricultural community plays in maintaining open space, protecting wildlife corridors, protecting water quality, managing carbon, preserving a valuable local heritage, and contributing to food security and the local economy.” We thank the County of Marin for leading efforts to achieve this goal through its LCP Amendment process and suggest that the CCC Revised Findings regarding agricultural revisions have compromised that goal and should not be approved.

Sincerely,



Kate Powers
MCL President



October 20, 2016

Commissioners
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105

Subject: Recommendations for sections of the County of Marin Local Coastal Program Amendment Land Use Policy and Implementation Program (approved by Marin County Board of Supervisors on April 19, 2016 and subsequently submitted to the California Coastal Commission) specifically pertaining to: 1) Agriculture Ongoing; 2) Retail Sales; 3) Processing; and 4) Inter-generational housing.

Dear Commissioners:

The Marin Conservation League is one of Marin's leading conservation organizations, in existence since 1934. MCL participates actively in monitoring and reviewing existing and proposed land use policies for agreement with our organization's mission of conserving Marin's ecosystems and environment. In this capacity and role, MCL has made significant efforts to understand the concerns and needs of Marin's broad and diverse communities, striving to form working compromises that are supported by the local community. This includes participation in the long process to develop the County of Marin Local Coastal Program Amendment (LCPA) Land Use Policy (LUP) and Implementation Program (IP), approved by Marin County Board of Supervisors on April 19, 2016 and subsequently submitted to the California Coastal Commission.

One the eve of these elements coming before the California Coastal Commission for approval, MCL wishes to convey its recommendation for Commission approval of the LUP and IP as proposed by the County of Marin for: 1) Agriculture Ongoing; 2) Retail Sales; 3) Processing; and 4) Inter-generational housing. In all four cases, County of Marin staff has developed carefully crafted performance measures and restrictions that will allow for these components to support the significant contribution Marin's family ranches and farms make in protecting Coastal Marin from development. Combined, they provide the individual agricultural producer and relevant local County of Marin departments the ability to make critical and real-time farming decisions, exercise entry-level scale for agricultural diversification, and house multiple farm family generations, doing it in a way that simultaneously protects Environmental Significant Habitat Areas, safeguards against traffic and other operational impacts, and sets a limit of 27 additional housing units. In these four areas, MCL supports the County of Marin's proposed LUP and IP.

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MCL has actively participated in many of the diverse opportunities to provide input and feedback to arrive at the submitted LUP and IP drafts before the Commission. MCL supports these four areas of the County of Marin LCPA. Thank you for your consideration of these recommendations and please know we are available to discuss these with Commission staff and Commissioners.

Respectively,



Kate Powers

President

Marin Conservation League Agriculture Policy Statement

OVERVIEW

Two hundred and fifty-five families operate Marin County's farms and ranches. Most of these are multi-generational ranches with annual gross incomes of less than \$100,000.00 and an average size of 600 acres. These ranches are located on 167,000 acres of hilly grassland and mixed oak woodland in rural Marin County. Included in this number are at least 28,000 acres of ranchland in the Golden Gate National Recreation Area and Point Reyes National Seashore, which are subject to federal jurisdiction.

The most productive use of the great majority of Marin's agricultural land is livestock grazing. Relatively dry and cool marine climatic conditions along with steep rolling hills and relatively little water are defining factors. An exception is the less than 1% of prime land, which is suitable for row cropping.

Agriculture is one of the ten major business ventures in Marin, and therefore valued as a critical element in supporting Marin's economy. Flexibility and diversification over the last 30 years have enabled agriculture to remain economically viable. Where conventional milk and beef production were the foundation of the Marin agricultural economy for many decades, now value-added and specialty products and services augment the base. For example, grass-fed beef, pastured poultry and eggs, on-farm cheese-making and small-scale organic row and tree cropping, as well as bed and breakfast accommodations, are some of the newer agricultural ventures contributing to the agricultural economy. Organic milk production accounts for more than 40,000 acres being in organic certification, far above state and national rates. The purchase of conservation easements by the Marin Agricultural Land Trust (MALT) has helped about half of the ranch operations to stay in business.

On-going threats to Marin's agricultural community remain much as they have been in the past: skyrocketing property values, which encourages urbanization, family succession challenges, invasive plants, and, more recently, uncertain climate and rainfall conditions. Along with A-60 zoning, supportive Countywide Plan policies, and

strong Coastal Zone protections, the purchase of conservation easements by the Marin Agricultural Land Trust and enrollment in the Williamson and Super Williamson Acts has helped stay the hand of developers and estate ranchers. Ninety percent of Marin's ranches are protected in this way.

The vast majority of ranches and farms are generational family enterprises, which has effectively raised sustainable standards and made owners better guardians of the land. As stated in the Land Use Plan (p. 12, 3rd para.) of the Local Coastal Plan, and adopted by the Marin Board of Supervisors, "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."

Marin's ranchers have demonstrated a high level of voluntary participation in beneficial conservation practices over the past 30 years. Implementation of conservation practices has improved water quality, created wildlife habitat, prevented soil loss and sequestered carbon. More than 25 miles of creeks have been restored and more than 650,000 cubic yards of sediment have been kept out of creeks and the bay. Marin's ranches, with their extensive grasslands and forests, are expected to help Marin County reach its Climate Action Plan goals. Ranchers are supported in their conservation practices by a suite of strong federal and state laws, standards, and regulations and effective county policies and code, all designed to protect environmental resources on agricultural lands.

STATED GOAL

To continue to support the role Marin's agricultural community plays in maintaining open space, protecting wildlife corridors, managing carbon, preserving a valuable local heritage, and contributing to food security and the local economy. This statement is consistent with MCL's previous positions and actions regarding agriculture.

POLICY

As approved by the Board of Directors on November 17, 2015

Following are policy statements that specify and clarify Marin Conservation League's goals and concerns.

Natural Resources Management:

1. Support sustainable management of grassland and rangeland, which provides critical forage for livestock, while fostering wildlife habitat and preserving native plants.
2. Support soil management practices that lead to increased water-holding capacity and an increase in organic matter in the soil.
3. Support soil management practices such as the use of the “no-till drill”, which minimize soil disturbance, prevent soil loss and reduce the flow of sediment into streams, bays and the ocean.
4. Encourage the alignment of local conservation programs and practices with the goals of the Healthy Soils Initiative as described on the California Department of Food and Agriculture website.
5. Support development restrictions within 100 feet or more of wetlands and stream conservation areas, as defined in the Countywide Plan (BIO-3.1 and 4.1) to protect wetland and stream habitats.
6. Support the management of invasive plants through Integrated Pest Management, including chemical measures, where other control measures are infeasible or ineffective.
7. Support the federal Clean Water Act 1974 and Endangered Species Act 1973, and California's Porter-Cologne Act of 1969 because of their broad powers in protecting natural resources.
8. Encourage those conservation practices that reduce the delivery of pathogens, sediment, mercury and nutrients to our waterways and all bodies of water.
9. Promote the efficient use and reuse of water on farms and ranches to meet their

agricultural needs. Maintain water infrastructure, and if old sources become insufficient, consider developing new sources of water only if adverse environmental impacts can be avoided.

10. Support carbon farm planning and implementation of the United States Department of Agriculture's Natural Resource Conservation Service's carbon-beneficial practices.

11. Support assisted ranch management planning and cost-share implementation of best management practices, rather than depend principally on enforcement to attain compliance with environmental regulations.

12. Encourage efficient energy management and the production of renewable energy resources on and for individual ranches, such as wind, solar and methane digestion, where adverse environmental impacts can be avoided.

13. Discourage the development of large wind and solar "farms" on agricultural lands for commercial purposes, due to energy production inefficiencies, installation and transmission impacts, visual impacts such as disharmony of scale and inconsistency with rural character, and environmental impacts such as wildlife and habitat degradation.

14. Encourage greenhouse gas reduction and climate adaptation practices, as described in the U. S. Department of Agriculture's "GHG and Carbon Sequestration Ranking Tool."

Partnering Agencies:

15. Support the Grazing and Dairy Permit Waiver Programs of the Regional Water Quality Control Board.

16. Support funding and technical support to farmers and ranchers seeking to improve water quality and fisheries habitat.

17. Support national, state, local, and private funding for conservation implementation programs through Marin Resource Conservation District, Marin Agricultural Land Trust, and Natural Resources Conservation Service.

18. Support landowner education and permitting facilitation through county-

funded positions, such as the Marin Resource Conservation District's Stream Coordinator position and the University of California Cooperative Extension's Agricultural Ombudsman position.

19. Encourage the County to control invasive plants on County rights of way and on open space preserves, to prevent invasives from spreading onto ranchland.
20. Support coordination programs between permitting agencies, such as the Marin Resource Conservation District's Coastal Permit Coordination Program, which bundles permit requirements over several agencies to promote efficiencies and to reduce the financial burden on agencies and landowners.
21. Support the inclusion of the Local Coastal Program permitting requirements in the recertification of the Marin Resource Conservation District's Coastal Permit Coordination Program.
22. Endorse the role of Marin Agricultural Land Trust, Marin Resource Conservation District, the Natural Resources Conservation Service, the Ag Institute of Marin, the Marin Dept. of Agriculture, the Marin Community Development Agency and the University of California Cooperative Extension Service, the Regional Water Quality Control Board, and the California Department of Fish and Wildlife in preserving and protecting Marin County's agricultural heritage and natural resources, and supporting the best management practices which foster long range productivity and environmental protection.

Zoning and Land use:

23. Support a "critical mass" of agricultural production (e.g., sufficient number of dairies, acres of beef production, small-scale crops, etc.) needed to maintain the demand for goods and services that are necessary to support a viable agricultural economy in Marin County.
24. Balance ranchers' desire for flexibility in cropping decisions with the need to not exceed impact thresholds or standards for grading quantities (e.g., terracing), irrigation, and setbacks from streams, wetlands, and other sensitive resources.
25. Support Marin Countywide Plan and Coastal Zone policies that limit residential

development on agriculturally zoned land, and limit the size of farm residences.

26. Limit development of farm dwellings and ancillary structures to clusters within 5% or less of total ranch acreage. (See Marin Countywide Plan AG-1.6).

27. To facilitate intergenerational succession on family farms in the Coastal Zone, support up to two dwellings in addition to the farmhouse per “farm tract” (defined as all contiguous lots under common ownership), as conditioned in the Land Use Plan of the Local Coastal Program, adopted August 25, 2015 by the Board of Supervisors.[\[i\]](#)

28. Support affordable, safe and healthy housing for Marin’s largely permanent farm workforce both on-farm and in nearby villages.

29. Support policies, programs and zoning that restrict subdivision of agricultural lands by requiring demonstration that longterm productivity of agricultural on each parcel created would be enhanced. (See Marin Countywide Plan AG-1.5).

30. Maintain a minimum A-60 zoning, as it has been instrumental in protecting agriculture, maintaining open space values, and preserving the rural character of West Marin.

31. Support the County of Marin’s Affirmative Agricultural Easement Program and MALT’s Mandatory Agricultural Easement Program, which are listed in the LUP of the LCP as a program to evaluate: Program C-AG-2b Option to Secure Affirmative Agricultural Easements Through Restricted Residences...etc.

32. Support small-scale diversification and value-added production (such as cheese production), and services (such as bed-and-breakfast or non-profit farm tours) consistent with County policy and code, where adverse environmental impacts can be avoided.

33. Balance development of new retail farmstands with the need to protect viewsheds and safety on Highway One.

34. Encourage internet capacity expansion in the rural areas of Marin, avoiding negative visual impacts to ridgelines and viewsheds.

35. Discourage expansion of vineyards due to their negative impacts on soils, water quantity and quality, and wildlife habitat.

36. Support prohibition of incompatible and environmentally damaging recreational uses, such as motorcycle riding and off-road biking, on agriculturally zoned land.

37. Encourage the restoration of traditional and iconic ranch structures, such as wooden barns and outbuildings, to maintain the cultural landscape of agriculture in West Marin.

Footnote to Item #27 _____

[1] Excerpted from Land Use Plan policies C-AG-5 A. and AG-7, agricultural dwelling units, including intergenerational housing, may be permitted in C-APZ zoning districts, subject to the following conditions: dwelling units must be owned by a farmer or operator actively engaged in agricultural use of the property; no more than a combined total of 7,000 square feet (plus 540 square feet of garage space and 500 square feet of agricultural-related office space) may be permitted per farm tract; intergenerational farm homes may only be occupied by persons authorized by the farm owner or operator; a density of at least 60 acres per unit shall be required for each farmhouse and intergenerational house (i.e., at least 180 acres required for a farmhouse and two intergenerational homes); no more than 27 intergenerational homes may be allowed in the County's coastal zone; permitted development shall have no significant adverse impacts on environmental quality or natural habitats; all dwellings shall be placed within a clustered development area; and development shall be sited to minimize impacts on coastal resources and adjacent agricultural operations.

References:

Three Essential Documents:

1. 2007 Marin Countywide Plan

<http://www.marincounty.org/depts/cd/divisions/planning/2007-marin-countywide-plan>

2. Development Code (aka Zoning Ordinance)

https://www.municode.com/library/ca/marin_county/codes/code_of_ordinances?nodeId=TIT22DECO

3. Zoning Maps*

(<http://www.marinmap.org/Html5Viewer/Index.html?viewer=mmdataviewer>)

* MarinMap serves up County geographic data including Zoning. There doesn't seem to be a free-standing Zoning Map accessible on the web. The *MarinMap* screen shot *County Zoning* document provides a generalized picture of the Zoning, and a *MarinMap Viewer* set to Zoning can be used on the above website with the "Layers" toggled on or off as shown to get more refined information.

Hart, J. 1991. *Farming on the Edge: Saving Family Farms in Marin County, California*. University of California Press. Berkeley, CA. 174 pgs.

ICF International. 2015. *Marin County Climate Action Plan (2015 Update)*. July. (ICF 00464.13.) San Francisco. Prepared For Marin County, California.

Marin County Department of Agriculture. 2015. *2014 Marin County Livestock & Crop Report*. Marin County Department of Agriculture. Novato, California. 8 pgs.

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NRCS. 2015a. *Comet-Planner: Carbon and Greenhouse Gas Evaluation for NRCS Conservation Practice Planning*. USDA Natural Resources Conservation Service and Colorado State University. <http://www.comet-planner.com/>.

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SFRWQCB. 2013. *Renewal of Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed*. Resolution Order No. R2-2013-0039. Oakland, CA. 20 pgs.

SFRWQCB. 2015. *Renewal of Conditional Waiver of Waste Discharge Requirements for Existing Dairies within the San Francisco Bay Region*. Resolution Order No. R2-2015-0031. Oakland, CA. 19 pgs.



MARIN COUNTY FARM BUREAU

P.O. Box 219, Pt. Reyes Station, CA 94956 · 415-663-1231
manager@marincfb.com

April 13, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Sent via email to BOS@marincounty.org

Re: Proposed Local Coastal Program Update

Dear Supervisors,

Marin County Farm Bureau (MCFB) has been deeply involved in the decade of discussions, hearings and workshops arranged by Marin County Community Development Agency (CDA), as well as the California Coastal Commission (CCC), to ensure the interests of Marin's farmers and ranchers are represented and respected throughout the Local Coastal Plan (LCP) update process. Although the Marin County Board of Supervisors (BOS) and staff listened carefully, worked very hard, respected the needs of our rural communities and continuously proposed language whereby agriculture in the coastal zone could survive, the final LCP amendment is unacceptable. MCFB urges the Marin County Board of Supervisors to reject the entirety of the amendments as currently presented by CCC.

Modifications made by CCC staff to the California Coastal Commission's decisions following its November 2, 2017 public workshop have increased farmer and rancher frustration. These staff changes reinterpreted the outcome of the November meeting and listed several things that are at odds with prior CCC determinations, including requirements for farmers to obtain permits for what used to be ongoing agricultural activities that could now be reclassified as "development" - such as adding another pipe to an existing irrigation system, or switching from grazing to crop production.

Other concerns have arisen, including the ambiguity of terms, such as the true meaning and interpretation of "legally established existing agriculture," or "actions that intensify the use of land and water," or "what payments or reimbursements are to be allowed for educational tours" or "any development shall be accessory to, in support of, and compatible with agricultural protection." Without standards in place, a number of determinations are left up to the judgment and discretion of the CCC staff on a case-by-case basis. And, as you are aware of, CCC has refused to hire even one staff member who has agricultural experience. If these amendments are approved, Marin County farmers and ranchers would be forced to obtain permits to farm.

In essence, the CCC staff is saying just about anything new or different that we do on our farms is "development", so the intent is to only allow and lock in what farmers and ranchers are doing today under the heading of existing use. Such a policy will inhibit present day and future farmers from making a living, or being able to compete with their counterparts in in-land areas not encumbered by such permit restrictions. If we are not allowed to change or add new technology, advanced farm practices, change crops or make other modifications without a permit, we are in trouble. Maintaining the status quo is not good enough. We have to be allowed to make quick business decisions and take care of the land or we are out of business.

Knowing that obtaining a Coastal Development Permit (CDP), or Coastal Permit, is a long, arduous and expensive process, and dealing with CCC staff having no agricultural experience or expertise, few farmers and ranchers will elect to change what they do. Ranches would lose resiliency because of the inability to change crops in response to climate or market changes and the next generation farmers and ranchers with dreams of diversifying (changing the intensity of use) and connecting with the local food system would be shattered.

With Marin County as an initial test case, if anti-agricultural CCC rules are allowed to stand, these permit requirements could be the precedent mandated for all those farming in designated coastal areas of the state along an 800-mile shoreline within the CCC's jurisdiction. MCFB requests that this BOS not allow Marin County to be the precedent to use against farmers and ranchers elsewhere.

The 1982 Marin County LCP is protecting Marin's coastline. Excessive development of ranch lands in violation of the Coastal Act is not a problem and has not been a problem. There is no rational reason to impose new, onerous and debilitating restrictions on the ranch lands that have not been a problem. Certainly, specific sections could be updated without wholesale change, and new restrictions could be limited to areas where new restrictions are needed.

MCFB has heard from activists groups supporting the undefined and unnecessary restrictions added by CCC staff. The threat is that if this BOS rejects these LCP amendments, the CCC will begin to more rigorously enforce the current LCP. We hope we can count on the support of this BOS if this threat of retribution becomes real. Up to now, ranchers and farmers can implement changes, vary crops, add irrigation, install water systems, grade roads, build fences, repair buildings, implement USDA Natural Resources Conservation Service Environmental Quality Incentives Program projects, MALT conservation projects, RCD conservation projects as well as other minor land modifications, without a Coastal Permit. We believe that this 36-year interpretation of the current LCP is appropriate, that the coastal zone is properly protected, and that this longstanding interpretation should continue.

MCFB greatly appreciates the continuous support for Marin's agriculture this Board has given over the years. Your decision to reject the LCP on April 24th, 2018 will not only benefit farmers and ranchers in the coastal zone, it will benefit all agriculturists throughout the County for two reasons: 1) Anti-agriculture activists will push to have any new restrictions placed on ranchers and farmers in the coastal zone applied to all of Marin's agricultural land, and 2) Critical mass is needed to support the agricultural ranching and farming families in Marin. The loss of coastal farms and ranches would harm the entire agricultural economy by the loss of necessary supporting businesses. Certainly, supporting agriculture in the coastal zone will benefit more than just those of us engaged in food production. Healthy local foods from coastal farms provide Marin County with more resiliency, increased food security, a reduced carbon footprint and a cultural landscape appreciated by many.

Thank you,

A handwritten signature in black ink, appearing to read 'Kevin Lunny', written in a cursive style.

Kevin Lunny
President
Marin County Farm Bureau

Tucker, Thomas

From: eleanor@eleanorlyman.com
Sent: Sunday, April 22, 2018 10:02 PM
To: BOS
Subject: LCP Update

Eleanor Lyman would like information about:

I am deeply concerned that the Local Coastal Plan Update will destabilize Marin's ag economy and make it difficult for agriculture to survive and prosper! We are so fortunate to have award-winning dairy products, wonderful produce, and shellfish!

I am against the proposed changes that food production would be reclassified as "development" making it harder for farms to adapt without getting caught up in bureaucratic red tape with expensive permit costs.

Santa Barbara County faced a similar dilemma and rejected their LCP update in 2011.

I urge the Supervisors to keep the 1981 LCP in place and reject the current LCP update!

Eleanor Lyman
Bolinas, California

Dear Members of the Board of Supervisors:

I am writing to you as the informal representative of a number of community groups in the Stinson Beach area who have come together at the direct request of Supervisor Kinsey and management of the County's Community Development Agency over the past year to discuss proposed amendments to the Local Coastal Plan, specifically to the Environmental Hazards section of the Land Use Plan and associated Implementation Program Amendments. Board members of the Stinson Beach Village Association, the Seadrift Homeowners Association, "Residents for Responsible Land Use" (a grassroots organization of homeowners in the low-lying Calles and Patios section of Stinson Beach), the Stinson Beach County Water District, local Realtors and other concerned citizens first met with Supervisor Kinsey, Tom Lai and Jack Liebster of the CDA during Thanksgiving week of last year. Following initial discussions, Supervisor Kinsey asked us to arrive as best we could at a "community consensus"; a small number of changes that we all agreed would be most critical for our local community, and that could be taken into account as final amendments were drafted. We held several meetings, exchanged dozens of pages of analysis and position statements on these issues, and posted numerous information statements to the surrounding community on NextDoor, via fliers, and through email. At a very well-attended Stinson Beach Village Association meeting of over fifty local residents and members of these groups with Jack Liebster and his staff, Jack and I led a community discussion of five major areas of concern that we had in fact agreed were of special importance to the greater Stinson Beach community. While I cannot claim the direct mandate of every resident of Stinson Beach, after each issue was discussed Jack called for a show of hands – and on each the consensus of the entire assembly was unanimous.

Our concerns were that, as proposed by California Coastal Commission staff: 1) Hazard reporting requirements were overly onerous, costly and in some cases impossible to meet for many in Stinson Beach; 2) Requirements for 100 year sea level rise projections and lack of definition as to what it meant to be "near the shoreline" would effectively lead to development or even regular maintenance being impossible to pursue in most of low-lying Stinson Beach; 3) "Coastal Redevelopment" would lead to a new set of permit requirements that could strip homeowners of rights to develop and maintain their properties; 4) Height limits, view considerations as a "stalking horse" for the obstruction of further development, and a blanket prohibition on elevating homes in response to sea level rise meant that our homes would have to be abandoned instead of simply raised a few feet as flooding hazards increased over time; and 5) categorical exclusions duly ordered by the Board of Supervisors of Marin and still in force, as well as exemptions for single-family home development explicitly granted by the Coastal Act itself, could in many cases be denied to Stinson Beach residents.

While not every proposal made by the representatives of these Stinson Beach community groups was implemented as requested at this meeting, we believe that County staff at the Community Development Agency truly listened to and diligently considered these critical community concerns, and that the proposed amendments to the Environment Hazards section of the Land Use Plan and to the Implementing Program best represent the appropriate balance the Coastal Act demands between the safety and property rights of homeowners in the Coastal Zone, and critical environmental, public access, public view, and community character mandates. The

Coastal Act requires that local governments create their local coastal programs “with full public participation”. Having myself attended seven community meetings at which County staff were present to explain and seek input on these amendments, read and discussed documents exchanged with a working group of fourteen local community leaders, and even gone on local radio station KWMR twice in the past four months to help inform the community of the work of County staff on the Local Coastal Plan, I cannot imagine that - short of knocking on every door in Stinson Beach to hold one on one discussions - any local government could possibly have done more to encourage and obtain “full public participation” in this process. Their work has been truly exemplary.

Please support your constituents in the Stinson Beach community, and all throughout the Coastal Zone of Marin County, by following your staff’s recommendations and approving the resolution to resubmit their proposed Land Use Plan Amendments and Implementation Program Amendments to the California Coastal Commission.

Thank you very much for your time and consideration,

Jeff Loomans
167 Dipsea Road, Stinson Beach
loomans@stanfordalumni.org

cc: Brian Crawford, Director
Jack Liebster, Planning Manager

Tucker, Thomas

From: Carolyn Longstreth <cklongstreth@gmail.com>
Sent: Friday, April 20, 2018 10:36 AM
To: BOS
Subject: Accept the Local Coastal Program Amendments on April 24th.

All Marin County Board of Supervisors [general box] All Marin County Board of Supervisors [general box],

Dear Supervisors:

I am writing to support the Board of Supervisor's acceptance of the Marin County Local Coastal Program amendments.

The community has spent a decade working on the LCP amendments, balancing the needs for community development and land-use with the protection of our coastal resources as mandated by the California Coastal Act. We should not stall these efforts with any further delays. While the amendments are not perfect, they provide critical updates to our outdated 1981 planning policies and implementation measures, and most importantly - once the environmental hazards chapter is completed - critical planning tools for our communities to adapt to the impending threats of sea-level rise.

The Board of Supervisors should accept all of the non-environmental hazards LCP amendments so that Marin County and the Coastal Commission can turn their attention to environmental hazards, which is not addressed in the 1981 Certified LCP. This is critical so that our communities will have the appropriate planning tools to address the local impacts of climate change like flooding and sea-level rise.

If Marin County fails to accept the amendments on April 24th, Marin County's LCP amendment process will be at the "bottom of the Coastal Commission pile," and we will even further delay implementation of our environmental hazards adaptation strategies, which are meant to be part of the County's LCP.

The delay in sea-level rise adaptation planning that would result from the County letting the Coastal Commission's conditional certification expire (deadline is May 2nd) would have significant impacts to coastal resources in West Marin. Delaying the LCP amendment years into the future jeopardizes Marin County's C-SMART program (Collaboration: Sea-level Marin Adaptation Response Team) and our communities' ability to adapt to impending environmental hazards.

Thank you for the consideration of my comments and your support to accept the Local Coastal Program Amendments.

Carolyn Longstreth
PO Box 657, 10 Balmoral Way
Inverness, CA 94937

Tucker, Thomas

From: Annette Brands <abrands@me.com>
Sent: Monday, April 23, 2018 10:39 AM
To: MarinLCP
Cc: Drumm, Kristin; Liebster, Jack
Subject: Local Coastal Program Amendments #3 and #7

[April 24th](#) Meeting of the Board of Supervisors
Local Coastal Program Amendments #3 and #7
Annette Brands - OPPOSED

Marin County Board of Supervisors
[3501 Civic Center Drive, Suite 329](#)
[San Rafael, CA 94903](#)

Dear President Connolly and Members of the Marin Board of Supervisors,

I am a homeowner and resident of West Marin and I ask you to vote No on Amendments 3 and 7 of the LCP [on April 24th](#)".

Amendments 3 and 7, as proposed, contain language that ignores the thoughtful and carefully researched input provided from local residents of Marin County. As a result, these amendments are seriously flawed and contravene the rights of local communities. Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act. As an owner of a home built since 1973, I am particularly concerned about losing Coastal Act protections due to the definition of 'existing' in Amendment 7.

As County staff pointedly notes, they contain language inconsistent with long established practice or fundamental principles under the Coastal Act, impermissibly infringe upon local zoning control, are inconsistent with local County of Marin policies, practices, and customs, lack sufficient precision to allow clear and consistent implementation, and are beyond the reasonable application of the Act.

You have been conferred with the authority and the responsibility to protect the interests of your constituents. However, our input has been repeatedly ignored by the Coastal Commission staff in drafting these Amendments. I urge you to act on our behalf. Please vote "No" on Amendments 3 and 7 of the LCP [on April 24th](#).

Sincerely yours,

Annette Brands
[55 Dipsea Road](#)
[Stinson Beach, CA 94970](#)
Annette Brands
abrands@me.com
415-640-4698

Tucker, Thomas

From: karnubawax@earthlink.net
Sent: Thursday, April 19, 2018 4:48 PM
To: BOS
Subject: Please reject LCP update

David Karner would like information about:

Please support our local farmers - and the rich history of farming in Marin - and vote to oppose the update to the Local Coastal Program.

Tucker, Thomas

From: Johnston, Bob <rajohnston@ucdavis.edu>
Sent: Saturday, April 21, 2018 12:33 PM
To: BOS; MarinLCP
Cc: Johnston, Bob
Subject: LCP Amendments Hearing, Tues. April 24, 2018: Please Withdraw Amendments

Dear Supervisors:

Please withdraw the LCP Amendments from consideration by the Coastal Commission.

It is very unlikely that your CDA staff will ever be able to achieve consensus with the Commission staff on the many issues where they still disagree. I believe that a large part of the problem with the LCP amendment process was caused by the County CDA staff not understanding and accepting the role of the Commission under State law and by CDA then overreaching in terms of advocating several amendments that are contrary to the Coastal Act. I will outline these attitude and process problems, as they will affect the upcoming CWP revision process and any future attempts to amend our LCP.

I taught land use planning, land use law, transportation planning, environmental assessment, and energy policy at UC Davis from 1971 to 2005. I was a member of local planning commissions in Davis and in Truckee. I have studied the Coastal Act since the initiative was started and I studied the Commission's affordable housing programs in the 1980s. I have read virtually the entire record for the LCP amendments and have attended most workshops and hearings since I moved to Inverness in 2010.

Fatal LCP Process Mistakes:

1. The ineffective approach of your CDA staff is exemplified by their failing to take seriously the letters from Commission staff (12/15/17 and others) clearly stating that the County must accept the 5 conditionally approved amendments by the upcoming May 2, 2018 deadline. The CDA staff is now trying, at the last minute, to have you accept 3 of the amendments and not 2 of them, so that CDA staff can then continue to negotiate with the Commission staff on the 2 remaining amendments. The Commission letter does not allow for this. It clearly states that you must accept all 5 amendments and then they will negotiate with your staff on additional changes. More generally, it appears that your staff does not understand the basic legal structure of the Coastal Act, nor how to interact with the staff of a State agency acting under a very strong local planning override statute. The assertion in today's staff report claiming that the Commission's adoption of the amendments and related findings are illegal in several ways is sure to further alienate the Commission staff. I think that your staff is burned out on this project and the County needs to withdraw the amendments and not study these issues for at least two years.
2. The CDA staff asked for too much at every step of the process, over the last 9 years. They seem to have ignored the advice of the Commission staff in some important cases. I would guess that they thought that Supervisor Kinsey was going to be able to push through the long lists of pro-development amendments, in spite of the Commission staff's professional opinions opposing some of them. This disrespectful attitude surely alienated the Commission staff and may have prodded them to adopt strict interpretations of the Coastal Act, fearing poor implementation by CDA.
3. The Marin County Farm Bureau bringing in the Pacific Legal Foundation to support their positions also undoubtedly aggravated the Commission staff, as this property rights group has attacked the Commission for decades (and many other California environmental agencies). The Farm Bureau and PLF legal positions on ag zoning densities and on lot

divisions were extreme. I believe that the local Farm Bureau got caught up in the statewide battle between the PLF and the Commission and that this made negotiations with the Commission staff even more difficult.

Narrow and Exteme Amendments:

1. In terms of substance, many of the ag amendments seem to be not in the public interest in that they narrow ESHA setbacks, increase retail activity on SR1 which is a narrow highway with poor sightlines, and allow farmers to sell products from another county.
2. Allowing additional ag dwellings by right is a radical special interest change to a long-time and successful zoning regulation that would have increased the costs of acquiring easements for MALT. I studied ag land conversion to suburban uses in many rural California counties during my career and think that adding dwelling units increases the probability of sales to rural estate owners.
3. A few of the ag amendments eliminated notice and hearings for important ag development permits. These are foundational democratic principles in the Coastal Act. The Commission staff tried to reinstate notice and appeal for some of these actions in an indirect fashion, in the last two years. When you consider that such an LCP amendment can become a precedent throughout the coast, one can appreciate the strength of the opposition to such policies.
4. Allowing more ag dwellings, ag retail stores, and small ag production facilities all by right seems to violate another one of the basic policies in the Coastal Act, keeping new development in towns.

I suggest that you evaluate the LCP amendment process used here, so as to avoid these problems in the future.

I agree with Peter Martinelli's letter, which is well put from his perspective.

Thank you,

Bob Johnston

Robert A. Johnston
USPS: P.O. Box 579
Point Reyes Station,
CA 94956
UPS/FedEx:
20 Drakes Summit Rd.
Inverness, CA 94937
Home: 415 663-8305

Dear Members of the Board of Supervisors:

I am writing to you as a representative of Stinson Beach, Seadrift property owners, and as someone who has spent significant recent time in discussions with village associations and agencies up and down our coast. I ask you to vote No on all Local Coastal Program Amendments before you, and discontinue this process in favor of one that instead submits more narrowly targeted, urgently needed minor amendments that stand a far greater chance of being approved - in a shorter time period with less staff time and County expense.

I ask this because discussions with coastal associations have made it clear that there is effectively no chance remaining that various stakeholder groups, your staff, and the staff of the Coastal Commission will ever come to an acceptable resolution on the LCP Amendments; possibly not on the seven issues in the Amendments before you, but certainly not on the remaining Environmental Hazards (EH) chapter. There is nothing here left to “salvage”, as according to the Coastal Commission, ultimate passage requires that all components must eventually be approved; passing certain Amendments now salvages nothing and only wastes time and money if remaining sections are never approved. It is now apparent that the time for compromise has passed, gaps on remaining issues have widened, and positions have hardened. Agreement on the remainder of the LCP will never take place.

I cite two recent examples that illustrate that your staff will be unable to reach a successful outcome on EH. The first comes directly from the Coastal Commission. As you are aware, the Coastal Commission intends to approve a Residential Adaptation Guideline for Sea Level Rise following the close of public comment in less than a week. This document contains provisions essentially identical to ones that CCC staff demanded be inserted into prior EH drafts, that virtually all coastal communities have objected to in the past three failed LCP submissions, and that have for over four years been irresolvable between County and CCC staffs. As of March 19th, in response to an open email inquiry by Jack Liebster following a webcast many of us attended, Jack asked the following simple question:

Does this mean the Guidance is mandatory for the CCC?

The mailed response from Mary Matella of the CCC was also simple:

... the Guidance—if adopted—will represent the Commission’s current interpretation of certain Coastal Act provisions, and as such may help inform the manner in which the Commission will apply those provisions in the coastal zone.

In verbal exchanges Coastal Commission staff had stated they intended to apply the Guidance as the CCC’s position on hazard-related provisions of our EH chapter when resubmitted; but this written response cements the position the Commission intends to take. The specific passages – many found word for word in the CCC Guidance Document - that your staff, and in fact your Board have found in the past to be grounds on which to reject EH ***will now be the official CCC interpretation of the Coastal Act***. How then do we expect the remaining EH chapter to ever be “salvaged”?

Even more disturbing to me personally is the April 19th letter to your Board from the Environmental Action Committee. Evidently, rather than converging upon compromise between what they term the various “stakeholders” such as themselves, community members and agencies, the discussion has now devolved into open threats. Here is a quote from EAC’s letter:

EAC, and others, are not likely to rely on past compromises if the LCP is not accepted on April 24th. Instead, EAC and others will revisit those compromises.

The boldface is theirs, not mine. The paragraph ends stating if your Board doesn’t pass all the Amendments, “they and others” will take *more* extreme positions on issues specific to the EH chapter than positions that have already resulted in three withdrawn LCP drafts.

I know that Brian Crawford has long intended to bring various such “stakeholders” together, along with County and CCC staff, to attempt to resolve the remaining EH issues. Please ask Brian a simple question at Tuesday’s meeting:

“Do you believe there is a strong likelihood of future compromise on remaining LCP issues, especially on EH, that would allow the entire LCP to be passed?”

Given the position now formally laid out in an official document by the CCC, and the rather startling statement by the Executive Director of the EH, I cannot imagine such a compromise will be reached. Myself? As a matter of personal and professional ethics, I don’t sit down to negotiate anything with anyone who starts the conversation with a threat. Having been in close recent contact with many of them, I doubt the leaders of other coastal villages and agencies feel much differently. We have evidently reached the end of the period for polite civic discourse over these issues; at a minimum the “stakeholders”, your constituents, will not be able to compromise. Neither will your staff and Coastal Commission staff. Hope is no longer a strategy. Trying to salvage a few Amendments is merely kicking the can down the road.

What can be salvaged is the hard work, knowledge gained, and written staff product from the past 10 years. We have urgently needed solutions to specific problems such as the Easkoot Creek flooding issue that EAC cites in its letter: a “building moratorium” that has remained unresolved since 2015 for over 225 homeowners in Stinson Beach, who have waited while County submitted failed LCP draft after failed LCP draft. We have narrow, agreed-upon written solutions to specific problems like this one that arose from the work your staff did on the LCP.

If you vote NO on Tuesday on the LCP Amendments, you don’t lose 10 years of work. You gain the opportunity to direct your staff to instead spend its time productively on amendments that really can be passed. Submit those and you will solve real problems, rapidly, for real constituents in West Marin.

Jeff Loomans
167 Dipsea Road, Stinson Beach
loomans@stanfordalumni.org

cc: Brian Crawford, Director

Tucker, Thomas

From: rodgerjacobsen@comcast.net
Sent: Friday, April 20, 2018 11:54 AM
To: BOS
Subject: pending LCP update before the Marin County supervisors

Rodger Jacobsen would like information about:

I read Peter Martinelli's articulate and well reasoned article in the IJ today spelling out the consequences if the Costal program changes the way things are to changing coastal agriculture to "grandfathered" activity which would require permit processes.

Please keep the 1981 LCP in place.

Thanks,

Rodger Jacobsen



INVERNESS PUBLIC UTILITY DISTRICT

FIRE DEPARTMENT ❖ WATER SYSTEM

POST OFFICE BOX 469
INVERNESS, CA 94937

(415) 669-1414 ❖ Fax (415) 669-1010 ❖ info@invernesspud.org

April 12, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903
via Electronic Mail: BOS@marincounty.org / marinLCP@marincounty.org

RE: Marin County Local Coastal Program Amendment

Dear Supervisors:

The Marin County coastal municipal water systems have unique challenges before them to ensure our communities have safe drinking water and adequate fire protection. The Coastal Permit process needs to recognize this and provide consideration to streamline the permitting process. Our water systems have aged infrastructure needing replacement, may have limited fire water storage that needs to be upgraded, and aged redwood tanks that are fire and earthquake damage prone needing replacement.

These critical lifeline infrastructure projects (and others) should have a streamlined permitting process that spends public monies effectively. Per the California Code Title 22, Division 4, under the California Environmental Quality Act, many water system projects are Categorically Exempt Class 2 or 3. It would be helpful if the Coastal Permit process mirrored the Exemptions allowed for in the CEQA process.

One particular area of concern is the replacement of redwood tanks. The 1995 Mt. Vision fire caused the redwood potable water tank (North Marin Water District service area) at the top of Drakes View Drive to be destroyed by fire. The Inverness Public Utility District has a Capital Improvement Program (CIP) to replace all six of the remaining redwood tanks with steel tanks. Similarly, the North Marin Water District has an ongoing CIP program to replace all remaining redwood tanks. There are limited tax payer monies available to provide for replacement of key infrastructure crucial to our coastal water systems. The LCP permitting process should be amended to reflect the replacement of this important infrastructure in the coastal permitting process to reduce overall project cost and schedule.

The undersigned water districts respectfully request that the Local Coastal Program amendment provide the County planners with a means to streamline the Coastal Permit process, particularly for critical lifeline infrastructure such as water systems. This would include the ability to grant a de minimis waiver if there are no adverse impacts. An exemption should allow for an increase in storage of up to 10% or that required for Marin County fire protection goals. In a high fire area, this storage is important. Fees for this permit application (if the de minimis waiver is granted) would be waived.

The current LCP updates do not address municipal public water system concerns with already overly complex and burdensome permitting requirements.

Thank you for your consideration.

Signed:

General Manager
Inverness Public Utility District

Cosigners: North Marin Water District
Muir Beach Community Services District

BOARD OF DIRECTORS: **KENNETH EMANUELS**, PRESIDENT • **DAKOTA WHITNEY**, VICE PRESIDENT
LAURA ALDERDICE, TREASURER • **BRENT JOHNSON** • **DAVID PRESS**

 **KEN EICHSTAEDT, P.E.**, GENERAL MANAGER • **JAMES K. FOX**, CHIEF OF OPERATIONS

Tucker, Thomas

From: rick@rickgordon.com
Sent: Monday, April 23, 2018 12:03 AM
To: BOS
Subject: Proposed LCP Update Will Severely Damage West Marin Agriculture - Please Reject!

Rick Gordon would like information about:

I am writing to support the position of the Marin County Farm Bureau, calling the Board of Supervisors to reject the current LCP update.

I believe that the proposed update to the Local Coastal Plan will destabilize Marin's agricultural economy and make it difficult for agriculture to survive and prosper.

The agriculture of West Marin has become a shining example of how farming and ranching can be done in an environmentally sound, creative, and profitable manner, and it has been an example, nationally and internationally. And it has provided a bountiful source of high-quality local produce, dairy products, and pasture-fed meats that are a blessing to this area and beyond.

I firmly believe that there are parties within the Coastal Commission, and influencing their decisions, whose goal is to restrict and eliminate agriculture in coastal regions, and whose intentions are not to be trusted.

I am against the proposed changes that food production would be downgraded from "primary" and reclassified as "development," making it harder for farms to adapt without getting caught up in bureaucratic red tape, with expensive permit costs.

The farmers and ranchers need the flexibility to adapt to conditions without going through a beaurocracy that is essentially opposed to agriculture.

As farmer Peter Martinelli said, "Up until now, new and young farmers of modest means have always been able to innovate and establish new products and business on our working lands. The ranch I farm in the coastal zone near Bolinas seamlessly shifted from orchard to pasture in the 1950s, pasture to row crop in the 1960s, back to pasture in the 1970s, and again to row crops in the 1980s. Without the ability to freely establish and adapt their operations, agriculture on this ranch would likely have died out long ago."

Santa Barbara County faced a similar dilemma and rejected their LCP update in 2011. Please do the same!

The votes of the Board of Supervisors on the update of the Local Coastal Plan will critically impact the future of agriculture in Marin County.

This is a watershed moment. I urge all of you to please understand that your vote will either protect or decimate the future of agriculture in West Marin, and I urge that you please vote to reject the current LCP update.

Rick Gordon
Point Reyes Station, CA

Tucker, Thomas

From: Drumm, Kristin
Sent: Saturday, April 21, 2018 2:00 PM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Revisions to Marin County's LCP

From: Linda Meier <lcmmeier@aol.com>
Sent: Saturday, April 21, 2018 2:49:01 PM
To: MarinLCP
Cc: Drumm, Kristin; Liebster, Jack
Subject: Revisions to Marin County's LCP

[April 24th](#) Meeting of the Board of Supervisors
Local Coastal Program Amendments #3 and #7
Linda and Lee Meier - Opposed

Marin County Board of Supervisors
[3501 Civic Center Drive, Suite 329](#)
[San Rafael, CA 94903](#)

Dear President Connolly and Members of the Marin Board of Supervisors,

I write as an owner of a house in the Coastal Zone. I oppose adoption of the California Coastal Commission (CCC) staff changes to Amendment 3 and Amendment 7 in Marin's Local Coastal Program Amendments. The Board should either reject the CCC Staff's proposed language or take no action, and retain the existing Local Coastal Plan.

Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act.

Amendment 7 contains provisions that primarily, if not exclusively, relate to the deferred "Environmental Hazards" issues. The Board should not now accept definitions whose meaning and purpose is understandable only in the context of Environmental Hazards provisions that are not now before the Board and not explained in the accompanying materials.

The Environmental Hazards issues were deferred because they drew substantial and broad-based opposition from Marin residents and businesses. Accepting the definitions in Amendment 7 now, out of context, would undercut fair consideration of the Environmental Hazards issues later. Since none of these provisions will go into effect until the Local Coastal Plan is complete, there is no benefit for the Board to act on them now.

Please vote no on the proposed amendments.

Respectfully Yours,
Linda and Lee Meier
258 Seadrift Road

Stinson Beach, CA 94970

Sent from my iPad

Tucker, Thomas

From: Drumm, Kristin
Sent: Saturday, April 21, 2018 2:00 PM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Please vote NO on LCP Amendments 3 and 7

From: Harriet Moss <harriet@moss.net>
Sent: Saturday, April 21, 2018 12:44:18 PM
To: MarinLCP
Cc: Drumm, Kristin; Liebster, Jack
Subject: Please vote NO on LCP Amendments 3 and 7

Dear Board of Supervisors,

I am a longtime resident of Stinson Beach, as well as a member of the Stinson Beach Affordable Housing Committee. We are the group that spearheaded the successful purchase last year (with the County's assistance) of an 8-unit apartment building by the beach in order to retain the building as affordable housing; the first and only in Stinson Beach.

Over the past 20 years I've watched my community be hollowed out by the conversion of what was once residential rental housing into overnight lodging for tourists. I've seen dozens of contributing community members be forced to move out of Stinson Beach - and West Marin - because their longtime rental was being converted. The current LCP, with its restrictions on downtown housing and existing home maintenance, would make the lack of housing for full-time residents along the coast even worse than it already is. Please oppose it.

I've also seen how incredibly important agriculture is to the character and health of West Marin and how farmers and ranchers struggle to stay financially afloat. Ironically, by making it more difficult for agriculturalists to be flexible, the proposed LCP amendments would actually result in the diminishment of one of West Marin's primary tourist attractions - the pastoral nature of the West Marin coast. Please do not let the Coastal Commission become the Agricultural Control Commission and further erode our communities in West Marin.

Thank you for your consideration and I urge you to reject Amendments 3 and 7 of the proposed LCP.

Harriet Moss
5 Laurel Avenue
Stinson Beach, CA 94970
415-868-2730 (h)
415-254-3492 (c)

Tucker, Thomas

From: Drumm, Kristin
Sent: Sunday, April 22, 2018 10:39 AM
To: Gurley, Margaret; Lacko, Leslie
Subject: Fwd: Opposition to the current LCP

From: Joanna French <jofrench@hotmail.com>
Sent: Sunday, April 22, 2018 10:58:50 AM
To: MarinLCP
Cc: Drumm, Kristin; Liebster, Jack
Subject: Opposition to the current LCP

I am a homeowner in West Main, please vote NO on Amendments 3 and 7 of the LCP on APRIL 24.
Thank you for your time.

Best,
Joanna French
323 Seadrift, Stinson Beach

Tucker, Thomas

From: Drumm, Kristin
Sent: Saturday, April 21, 2018 9:49 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Opposition to LCP Amendments #3 and #7

From: Richard Shupack <rshupack@att.net>
Sent: Saturday, April 21, 2018 8:27:37 AM
To: marinlcp@coastal.ca.gov
Cc: Drumm, Kristin; Liebster, Jack; Richard Shupack; Home
Subject: Opposition to LCP Amendments #3 and #7

April 24th Meeting of the Board of Supervisors
Local Coastal Program Amendments #3 and #7
Richard Shupack OPPOSED

MarinCounty Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, California 94903

Dear President Connolly and Members of the Marin Board of Supervisors,

I write as an owner of a house in the Coastal Zone. I oppose adoption of the California Coastal Commission (CCC) staff changes to Amendment 3 and Amendment 7 in Marin's Local Coastal Program Amendments. The Board should either reject the CCC Staff's proposed language or take no action, and retain the existing Local Coastal Plan.

Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act.

Amendment 7 contains provisions that primarily, if not exclusively, relate to the deferred "Environmental Hazards" issues. The Board should not now accept definitions whose meaning and purpose are understandable only in the context of Environmental Hazards provisions that are not now before the Board and not explained in the accompanying materials.

The Environmental Hazards issues were deferred because they drew substantial and broad-based opposition from Marin residents and businesses. Accepting the definitions in Amendment 7 now, out of context, would undercut fair consideration of the Environmental Hazards issues later. Since none of these provisions will go into effect until the Local Coastal Pla is complete, there is no benefit for the Board to act on them now.

Please vote NO on the proposed amendments

Respectfully yours,
Richard A. Shupack
102 Seadrift
Stinson Beach, CA 94970

Tucker, Thomas

From: Drumm, Kristin
Sent: Monday, April 23, 2018 5:33 AM
To: Gurley, Margaret; Lacko, Leslie
Subject: Fwd: Letter to Marin County Board of Supervisors

From: Jeff Greenberg <jeffsg@verizon.net>
Sent: Monday, April 23, 2018 12:43:14 AM
To: MarinLCP; Drumm, Kristin; Liebster, Jack
Subject: Letter to Marin County Board of Supervisors

April 24th Meeting of the Board of Supervisors
Local Coastal Program Amendments #3 and #7
Jeff Greenberg OPPOSED

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Dear President Connolly and Members of the Marin Board of Supervisors,

I write as an owner of a house in the Coastal Zone. I oppose adoption of the California Coastal Commission (CCC) staff changes to Amendment 3 and Amendment 7 in Marin's Local Coastal Program Amendments. The Board should either reject the CCC Staff's proposed language or take no action, and retain the existing Local Coastal Plan.

Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act.

Amendment 7 contains provisions that primarily, if not exclusively, relate to the deferred "Environmental Hazards" issues. The Board should not now accept definitions whose meaning and purpose is understandable only in the context of Environmental Hazards provisions that are not now before the Board and not explained in the accompanying materials.

The Environmental Hazards issues were deferred because they drew substantial and broad-based opposition from Marin residents and businesses. Accepting the definitions in Amendment 7 now, out of context, would undercut fair consideration of the Environmental Hazards issues later. Since none of these provisions will go into effect until the Local Coastal Plan is complete, there is no benefit for the Board to act on them now.

Please vote no on the proposed amendments.

Respectfully Yours,
Jeff Greenberg
27 Calle del Pradero, Stinson Beach
And

29 Calle del Pradero, Stinson Beach

Tucker, Thomas

From: Drumm, Kristin
Sent: Saturday, April 21, 2018 9:49 AM
To: Gurley, Margaret; Lacko, Leslie; Lai, Thomas; Crawford, Brian; Liebster, Jack
Subject: Fwd: April 24 meeting

From: Bob Sherman <rssherman3rd@yahoo.com>
Sent: Friday, April 20, 2018 6:27:07 PM
To: Drumm, Kristin; MarinLCP
Subject: April 24 meeting

I am a homeowner and resident of West Marin and I ask you to vote No on Amendments 3 and 7 of the LCP on April 24th. I worry that the amendments will infringe on my right to repair my home. The language is very vague and since all or most of the coast is in a hazard zone for tsunamis there will be Coastal Commission approval (or most likely no approval) for any projects I might undertake to keep my home safe for my family.

Thank you for hearing my concerns.

Bob and Cailean Sherman
129 Dipsea Rd.
Stinson Beach, CA

650-400-4560

Tucker, Thomas

From: robinfurner@gmail.com
Sent: Thursday, April 19, 2018 3:13 PM
To: BOS
Subject: Local Coastal Program (LCP) Update

Robin Furner would like information about:

I am writing in support of the 1981 LCP. Please reject the proposed update, which would create immense regulatory burden on our local farmers and ranchers. I really value the fact that we have sustainable agriculture in Marin and I would like to see it continue to thrive in Marin.

Thanks,
Robin Furner
Corte Madera

**East Shore Planning Group
P. O. Box 827
Marshall, CA 94940
ESPG@eastshoreplanninggroup.org**

April 19, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903
By email to BOS@marincounty.org

**Local Coastal Program Amendments
Board of Supervisors Meeting, April 24, 2018**

Dear President Connolly and member of the Board of Supervisors,

The East Shore Planning Group urges the Board of Supervisors NOT to approve any of the LCP amendments that were approved by the Coastal Commission in November 2016 and to postpone further action on the proposed Environmental Hazards amendments, deferring to adaptation planning of the C-SMART program.

Specific Issues Presented at the March 20 Workshop on Modifications to the County's Local Coastal Program Amendments (Amendments Nos. 3 and 7)

In their March 20 letter to the Board of Supervisors, Brian Crawford and Jack Liebster identified these items for discussion:

AMENDMENT 3 IPA Agricultural Provisions

- 3.4 "Agriculture Ongoing; Definitions IP Sec. 22.130.030 and Sec. 22.68.050.L
 - A. "Legally Established:"
 - B. "Conversion of Grazing Areas to Row Crops:"
 - C. "Examples" "of activities that are NOT ongoing agriculture:"

AMENDMENT 7- All other sections of the IPA, except Ag. And Hazards

- 7-1. Definitions of "Existing" and "Existing Structure"
- 7-2 IPA section 22.130: Definition of "Legal Lot" vs. "Legal Lot of Record"
- 7-3 IPA section 22.130: Piers and Caissons re "Shoreline Protective Device"
- 7-6 IPA section 22.64.140 – Public Facilities and Services
- 7.7 Section 22.64.170 – Mixed Uses in VCR Zone; Parks, Recreation, and Visitor Serving Uses
- 7-8. Lowest Density Required for Widespread Areas of Any Hazard

With respect to Amendment 3, we have previously supported the agricultural community on this issue, and our membership includes owners and employees at West Marin ranches. We agree with many in the agricultural community that this proposed amendment is unnecessary and confusing. It should not be approved.

With respect to Amendment 7, we disagree with the language approved by the Coastal Commission on 7-1, 7-3, 7-6 and 7-7 listed below. These are extremely problematic for our members, our community and our efforts to preserve housing for West Marin residents.

7-1. Definitions of “Existing” and “Existing Structure”

7-3 IPA section 22.130: Piers and Caissons re “Shoreline Protective Device”

7-6 IPA section 22.64.140 – Public Facilities and Services

7-7 Section 22.64.170 – Mixed Uses in VCR Zone; Parks, Recreation, and Visitor Serving Uses

We note that there are some suggestions that the Board could pass these provisions with plans and promises to make corrections and modifications at a later date. We do not have confidence in that approach for these amendments or others.

We agree with (and appreciate) the recommendation of the CDA in their letter to you dated April 24, 2018 for this hearing -- that these amendments not be approved, and ask that you NOT approve these amendments.

AMENDMENTS NOS. 1, 2 AND 6.

We disagree with the recommendations of the CDA in their letter to the Board for this hearing dated April 24, 2018 (the “CDA LETTER”). We believe each of these amendments should be rejected. In Attachment 1 to this letter, we discuss our specific concerns regarding these three proposed amendments.

ESPG does not believe and never has believed that a wholesale amendment to the LCP is necessary or desirable. A bit of history:

Since the County initiated a process to amend the LCP about 10 years ago, ESPG has been deeply involved in the process, primarily to defend against certain proposals that would be detrimental to our community. In the entire process, there has never been a proposal that we believed was necessary or beneficial for our community.

The process was initiated by the County primarily to conform with the format of the Countywide Plan and non-coastal sections of the Development Code and to consolidate Units I and II of the LCP. This can clearly be seen in the CDA Staff Report for the Planning Commission workshop on August 31, 2011¹. Amending the LCP originally began primarily as a matter of good housekeeping.

But, once the County’s LCP drafts went on to the Coastal Commission, it became a vehicle for the Coastal Commission staff to insert many of their own ideas for the regulations that they believe should apply to our communities. Advocacy from environmental, agricultural and community groups also had the effect of expanding the process and making it more cumbersome.

The rest is history – a myriad of proposals that added many layers of regulatory requirements with no real benefits to our community.

To be sure, there are some specific areas where limited amendments might be appropriate to update the 1982 version of the LUP and the Interim Development Code. However, in general

¹ At https://www.marincounty.org/~media/files/departments/cd/planning/local-coastal/110831_staff_report_all_attachments.pdf.

the existing LCP has served our community and others very well for many decades, and it is well understood.

Additionally, the attempt to put through a massive amendment has resulted in many provisions where, because of the pressure to accommodate demands of the Coastal Commission staff, undesirable provisions have been added and subsequently accepted by the County.

Concerns have been expressed that if the County does not go forward with the process or at least give the Coastal Commission some political victory, the County and its residents may face retribution in the form a refusal to assign Coastal Commission staff to consider new Marin County LCP amendments, by forcing their agenda on permit applicants, or by increasing enforcement activities. With all due respect, even if true, those are not good reasons to make bad policy.

The fact that the current LCP has served us for many years, like the United States Constitution, does not mean that it needs a major revision and re-write. The existing LCP can continue to serve as the primary planning document for our area without wholesale amendment, while specific issues can be narrowly addressed as necessary. That approach would serve our membership, other communities and advocacy groups well.

Environmental Hazards

Though Environmental Hazards (“EH”) is not before the Board at this time, the subject warrants special attention. It is the elephant in the room.

Given the inevitability of sea-level-rise (“SLR”), this portion of the existing LCP would benefit from a major well-considered amendment at some point. However, we believe the proposal to amend this section in the upcoming months is flawed.

Both the County and the Coastal Commission should acknowledge that we simply do not yet know enough about SLR nor how it will affect the very different coastal areas in West Marin to begin to draft new regulations. Nor do we have any understanding of the technologies that are and will be available to address the challenges, or how special tax districts like our Marshall Community Wastewater system could play a part in developing programs for multiple properties. We need to have a better understanding of those issues before adopting binding regulations that could compromise their implementation.

We do not need to look far to see the threat of developing EH regulations at this time. The Coastal Commission’s SLR Adaptation Policy Guidances² clearly show the rigid regulatory approach that will be required today for Coastal Commission approval of an EH amendment.³ It is the opposite of an adaptive management approach. Provisions of this sort would seriously damage the values of our homes and businesses. They would effectively preclude the use and enjoyment of our properties well before they are impacted by SLR. It is early condemnation.

Fortunately, Marin County’s CDA is leading the nation with a positive initiative to help our communities plan for SLR, especially the award-winning C-SMART program⁴. That

² See <https://www.coastal.ca.gov/climate/slr/vulnerability-adaptation/residential/>.

³ See Marin County’s many criticisms of the latest draft “policy guidance” in the CDA’s April 10 [letter of response](#) and [extensive comments](#). (15 pages of text, plus 159 specific comments.)

⁴ The Marin County CDA has just received the prestigious “Gold National Planning Achievement Award for Environmental Planning” from the American Planning Association for its C-SMART program.

program, already with preliminary planning proposed for our area in conjunction with Caltans, will help explore what approaches are practical in the various West Marin coastal areas and identify legal and financial resources. THEN, it would be appropriate to incorporate that learning into an amendment to the EH provisions. It is premature to amend EH now on an abstract and uninformed basis.⁵ Indeed, the EH provisions, if adopted, could cripple this process.

The Good that Has Come from the Process

Stopping the effort to approve a massive amendment to the LCP at this time will not result in any serious loss of the time and money that has been invested in the project. In fact, many benefits have already been achieved.

1. We have learned an enormous amount – the needs and concerns of various constituencies, possible solutions, and the process of dealing with the Coastal Commission and its staff in amending portions of the LCP.
2. We have learned, in retrospect, that it was not wise to attempt a massive re-write of the entire LCP. Rather, specific issues should have been targeted for amendment, which is the practice of most other cities, counties and governing bodies subject to LCP requirements. The sheer weight of this process and the willingness of the County to “deal” some issues to achieve the goal of completing a massive amendment has been counterproductive and, in some cases, has resulted in the acceptance of bad policy. The good news is that now, if the amendments are rejected, the County has an opportunity to focus its attention on needed amendments, while still benefitting from all that we have learned from this process.
3. Most importantly, our communities have become very engaged and informed about these planning issues, and they are taking an active role in helping shape their future.
4. Specific areas for targeted amendments have been identified, which can go forward soon. There is no need to wait for the entire LCP to be amended, as the work on them has mostly been done. These include:
 - a. Various provisions that would support agriculture.
 - b. The seven items identified as the LCP “accomplishments” on page 13 of the CDA LETTER. In fact, their approvals will most likely be expedited by targeted amendments (which could be approved this summer). Otherwise, they will not be effective until the IP amendments are approved, and the entire process is completed.
 - c. Some technical and process improvements.
 - d. Research and development of planning strategies for Environmental Hazards, as discussed above.

⁵ Some have suggested that the non-EH sections of the LCP Amendment could be adopted now, but that nothing would go into effect until the EH sections are completed. This would be extremely disadvantageous, essentially holding the EH amendments hostage to the process and to many interest groups who have no real stake in the EH subject. The result would likely be a solution which ramrods ill-considered provisions into the EH amendments.

Stopping the process now and realizing its gains would be far preferable to more endless efforts to amend the entire LCP.

*

*

*

Accordingly, we urge the Board of Supervisors to reject the Coastal Commission version of the LCP amendments, to rescind any prior approvals and to cease efforts to amend the Environmental Hazards sections. We understand that this would mean that the proposed massive amendment process would cease entirely, which we believe is the best course for the County and our coastal communities.

In closing, we note with appreciation the extraordinary efforts by the Community Development Agency and particularly by Jack Liebster and Brian Crawford to consider and accommodate the interests of the East Shore Planning Group and our membership.

Thank you for your attention,

A handwritten signature in cursive script, appearing to read "Mary Halley". The signature is written in dark ink and is positioned above the printed name.

Mary Halley, President, East Shore Planning Group

ATTACHMENT 1
to
East Shore Planning Group's Letter to Marin County Board of Supervisors
April 20, 2018

AMENDMENT 1–Land Use Plan, without Agriculture, Hazard Chapters

With referenced to the CDA letter to the Board for this hearing dated April 24, 2018 (the “CDA LETTER”), we disagree with the CDA recommendation that the Board should accept the three sections of Amendment No. 1 identified there, listed below with our comments:

1.1 Fire Hazards and ESHA p. 1

One would think that with the recent fires in Santa Rosa and Napa that fire protection and maintaining defensible space would be a critical importance. But, this amendment would delay and possibly prevent clearing that is necessary and legally required for that purpose and would result in uncertainty and delays when the need to protect from wildfires is immediate. We take little comfort from the CDA LETTER statement that “Coastal Commission staff has indicated the potential to clarify Program C-BIO-4.b to address ESHA as part of a concurrent ‘clean up’ amendment when the Commission considers the Environmental Hazards chapters.”

1.2 C-PK-3 Mixed Uses in Coastal Village Commercial/Res. Zone p. 5

This is a bad policy, especially in the East Shore, where the balance between visitor serving and residential uses was specifically addressed in an amendment to the existing LCP. In 1987, zoning near Hog Island Oyster Co and the Marshall Boat works was downzoned from C-CP commercial to C-VCR (village-commercial-residential). The Board found that the “*rezonings maintain a balance of local and visitor serving facilities in the Coastal Zone and do not significantly modify the priority given to visitor serving uses.*”⁶

But now, the Board is being asked partially to reverse that important policy, even though since 1987 commercial uses have expanded and residential uses have contracted in favor of vacation rentals. We take little comfort from the process outlined in the CDA LETTER: “The County intends to initiate a public process to work with residents in each village to achieve approval of maps of the commercial core area, establish a corresponding overlay zone and complete required rezoning as a future LCP Amendment.”

1.3 Limited Service Capacity, Priority Uses

Marshall and the Marin County Environmental Health Services pride themselves in the accomplishment of Phase 1 and Phase 2 of the Marshall Community Wastewater System. These amendments would put Phase 3 and badly needed drinking water systems at risk of a bureaucratic determination that there is limited capacity for other use, perhaps requiring

⁶ Please see our letter to the Board of May 12, 2017 detailing the 1987 rezoning, which is appended to this attachment.

expensive engineering reports. Likewise, we are concerned that the CDA's "interpretation" in the CDA LETTER, that the restrictions would not apply to "private individual water and wastewater disposal facilities," would leave that issue unsettled and subject to challenge. Indeed, in Attachment 7 to the CDA LETTER, the effect of the new proposed new regulations on private wells is made clear:

Public Facilities and Services

LCPA (Proposed amendment)

New regulations require applicants for new or expanded private wells and on-site sewage disposal systems <to> submit a report demonstrating the new or expanded well will not impact biological and hydrogeologically-connected resources on the subject or neighboring lots, and would not adversely impact available water supply for agricultural production or other priority uses.

ANOTHER UNACCEPTABLE PROVISION IN AMENDMENT 1

Additionally, the Board of Supervisors should not accept C-CD-4, which provides:

C-CD-45 Non-Conforming Structures and Uses. Allow existing, lawfully established non-conforming structures or uses to be maintained or continued, provided that such structures or uses are not enlarged, intensified, or moved to another site, or redeveloped in areas potentially subject to hazards. Structures or uses that are enlarged, intensified, or moved to another site, or redeveloped in areas potentially subject to hazards, must be brought into conformance with the LCP. If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of one year, the use shall be deemed to have been abandoned and shall lose its legal nonconforming status. However, replacement of 50 percent or more of the nonconforming structure is not repair and maintenance but instead constitutes a replacement structure that must be brought into conformance with the policies and standards of the LCP.
[Adapted from County Code Section 22.112.020]

This section goes well beyond the Coastal Commission regulation on which it is based:

14 CCR § 13252. Repair and Maintenance of Activities Requiring a Permit.

....

(b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

The regulation requires a coastal development permit, but the proposed LCP amendment goes further to impose standards for the permit that would effectively require the same review as if new home were proposed on the shore of Tomales Bay. The terms of the required coastal permit should be determined based on the circumstances at the time and the provisions in the Environmental Hazards chapter, including the fact that the structure may have a limited life as a result of anticipated sea-level rise, and this Section of Amendment 1 should be revised accordingly.

For the reasons stated above, we ask the Board of Supervisors to reject Amendment 1.

AMENDMENT 2 LUPA Agriculture Chapter

We defer to the agricultural stakeholders on the matter discussed in the CDA LETTER and reserve comment until we know their position.

AMENDMENT 6-IPA Permitting and Administration Chapters

This amendment eliminates any requirement for a hearing for some coastal permits and related County discretionary permits, even if an affected individual or a community organization requests one. Per the CDA LETTER, “a project that qualifies for an administrative Coastal permit but also requires another ‘non-coastal’ permit could now be handled administratively as long as no public hearing is required for the other discretionary permit.” This reduction in transparency from the current procedures and deviation from the process required by the Development Code in non-coastal areas is uncalled for and should be rejected. At the very least, a DZA-type hearing should be required if a member of the public requests it.

**East Shore Planning Group
P. O. Box 827
Marshall, CA 94940
ESPG@eastshoreplanninggroup.org**

May 12, 2017

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

By email to marinLCP@marincounty.org and BOS@marincounty.org

Marin Local Coastal Plan, Item 12, Board of Supervisors Meeting, May 16, 2107

Dear President Arnold and Members of the Board of Supervisors,

I write on behalf of the East Shore Planning Group. The East Shore Planning Group ("ESPG") is a California not-for-profit corporation formed in 1984 that has a membership of about 90 owners and tenants of residential, commercial and agricultural properties in the unincorporated area of Marin County along the east shore of Tomales Bay, including Marshall. ESPG is the primary local organization involved with issues of development in the area. We have been active in the formulation of the amendments to the Marin County Local Coastal Plan ("LCP") since the process began.

Under the original Local Coastal Plan, Unit II, as certified by the Coastal Commission in 1981, the properties near Hog Island Oyster Co (North Marshall) and the Marshall Boat Work / Post Offices ("South Marshall") were zoned C-CP (Planned Commercial, such as found at Nick's Cove or Tony's Seafood Restaurant.)

However, in 1987, the Board of Supervisors "down-zoned" the areas to C-VCR zoning, which made residential development a "principal permitted use" under the Development Code, with provisions to ensure compliance with Coastal Act policies¹. This was done with the approval of the Coastal Commission, and was consistent with the recently approved East Shore Community Plan.

If the Board of Supervisors approves the currently proposed LUP on Tuesday and the proposed IP later on, it will be reversing one of the key effects of that special Marshall rezoning.

¹ 22.57.122I Principal Permitted Uses. The following are permitted in all C-VCR districts:

1. Single-family dwellings, provided the following findings are made: In the area covered by the unit I LCP, the requirements of policy number 14, recreation and visitor serving facilities, have been satisfied. In the area covered by the unit II LCP, the requirements of policy number 3, private recreational and visitor serving development, have been satisfied;

The proposed LUP, PK-3, would change residential development in some of Marshall North and South from a “principal permitted use” to a “permitted use”. This would require that residential projects satisfy stringent conditions that are inconsistent with residential homes, and they would face new regulatory hurdles to obtain permits. We object on the grounds that there is no basis in policy or in any changed circumstances since 1987 that warrants this change, which will adversely affect the Marshall community.

When the Marshall areas were down-zoned in 1987, the Board of Supervisors made these findings (in Resolution 87-360, attached), which continue to be true today:

... WHEREAS the Board of Supervisors finds that the East Shore Community Plan and rezonings are internally consistent with the Local Coastal Plan, and

WHEREAS The Board of Supervisors finds that the East Shore Community Plan and rezonings maintain a balance of local and visitor serving facilities in the Coastal Zone and do not significantly modify the priority given to visitor serving uses, and

... .

WHEREAS the Board of Supervisors finds that proposed rezonings and Coastal Plan Amendment are necessary to preserve the existing residential/commercial mixed use in the Marshall and Post Office/Marshall Boatworks area ...

Accordingly, the Board of Supervisors made these specific changes to the LCP, Unit II:

2. On Page 48, section (3), amend as follows:

(3) Marshall. Existing commercial zoning in Marshall, C-I-H, shall be changed to a planned commercial district so that future expansions of developments are subject to master plan review. Existing commercial zoning in Marshall, C-CP, shall be changed to C-VCR to maintain and encourage the present residential/commercial mixed use and to encourage locally serving commercial uses.

3. On Page 49, section (3) amend as follows:

Commercial zoning on A.P. #106-40-03, a parcel sited amidst residential uses, shall be changed to a planned residential district.

(3) (b) Marshall Boatworks. The Marshall Boatworks/Post Office area shall be rezoned from [sic – should be “to”] C-VCR with the Boatworks as a permitted use. This will encourage continuation of this area as a residential/commercial mixed use while supporting its potential as a community activity center and gathering place.

These were well-considered actions that are as important today as they were in 1987 – perhaps even more important now. Removing residential development as a “principal permitted use” would gut the effect and intent of those actions.

We appreciate the good intentions signaled by the Marin County Community Development Agency in Attachment 1 to its Staff Report, and confirmed by the Coastal Commission staff in its letter of May 9, 2017.

The County intends to initiate a public process to work with residents in each village to achieve approval of maps of the commercial core area, establish a corresponding overlay zone and complete required rezoning as a future LCP Amendment. These refined maps should draw a clear distinction for principally permitted commercial uses in the village core and principally permitted residential uses outside the core.

Commission staff agrees with the County's approach to pursue a rezoning process to vet the Commercial Core maps with village residents and the interested public and replace the Modification at the earliest possible date.

However, for Marshall, these issues were fully considered in 1987, and there is no factual or policy justification for changing the rules at this time. We should not need to go through a map drawing exercise or rezoning. Indeed, with increasing threats to housing in Marshall, it is of critical importance that these areas, which hosts many affordable housing units and have the potential for more, not have new barriers created by the amended LCP.

We respectfully ask that any approval of the LUP be specifically qualified to eliminate the effects of Section PK-3 on the C-VCR zoning in Marshall.²

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mary Halley". The signature is fluid and cursive, with the first name "Mary" and last name "Halley" clearly distinguishable.

Mary Halley, President, East Shore Planning Group

² There is precedent for special zoning provisions for unique coastal areas in Marin County. See, e.g., Development Code 22.57.0901 - C-RSPS—Coastal residential, single-family planned, Seadrift Subdivision districts.

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 87-360

A RESOLUTION OF THE BOARD OF SUPERVISORS APPROVING
LOCAL COASTAL PLAN AMENDMENTS TO ADD LCP TEXT AND TO REZONE
VARIOUS ASSESSOR'S PARCELS IN THE COASTAL ZONE IN ACCORDANCE
WITH THE RECOMMENDATIONS OF THE EAST SHORE COMMUNITY PLAN
EXHIBIT 'C'

* * * * *

- I. WHEREAS the Marin County Board of Supervisors held a duly noticed public hearing to consider amendments to the Local Coastal Plan Unit II and rezonings on June 2, 1987, and October 13, 1987 and
- II. WHEREAS the California Coastal Commission unanimously approved the Local Coastal Plan Unit II Amendments on September 8, 1987, and
- III. WHEREAS the Marin County Board of Supervisors finds that the Planning Commission held a duly noticed public hearing to consider the East Shore Community Plan, Goals, Objectives, Policies, Programs, Recommendations and Rezonings on April 7, 1987, and
- IV. WHEREAS the Board of Supervisors finds that the East Shore Community Plan and rezonings are internally consistent and consistent with Local Coastal Plan, and
- V. WHEREAS the Board of Supervisors finds that the East Shore Community Plan and rezonings maintain a balance of local and visitor serving facilities in the Coastal Zone and do not significantly modify the priority given to visitor serving uses, and
- VI. WHEREAS the Board of Supervisors finds that the East Shore Community Plan, rezonings and Local Coastal Plan Amendment will not result in significant environmental impacts to the environment and a Negative Declaration of environmental impact is hereby approved, and
- VII. WHEREAS the Board of Supervisors finds that an amendment to the Local Coastal Plan and Title 22 Zoning Code within the Local Coastal Plan area is necessary to implement the recommendation of the East Shore Community Plan, and
- VIII. WHEREAS the Board of Supervisors finds that proposed rezonings and Coastal Plan Amendment are necessary to preserve the existing residential/commercial mixed use in the Marshall and Post Office/Marshall Boatworks area and to allow processing of mariculture products in the Northshore Boats area, and
- IX. WHEREAS the Board of Supervisors finds that the goals of the plan to protect the existing environmental quality of the East Shore Community while carefully planning for a moderate amount of new development are appropriate given the existing environmental factors and development trends.

NOW THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby approves the following text amendments to the Local Coastal Plan Unit II as set forth herein:

1. On page 48, section (e), amend as follows:

Areas with expansion potential include the property known as Jensen's Oyster Beds, Nick's cove, Synanon, and Marconi Cove Marina. The town of Marshall and the Marshall Boatworks are recommended for local serving and limited visitor serving facilities allowed by C-VCR zoning.

2. On page 48, section (3), amend as follows:

(3) Marshall. Existing commercial zoning in Marshall, C-1-H, shall be changed to a planned commercial district so that future expansions or developments are subject to master plan review. Existing commercial zoning in Marshall, C-CP, shall be changed to C-VCR to maintain and encourage the present residential/commercial mixed use and to encourage locally serving commercial uses.

3. On page 49, section (3), amend as follows:

Commercial zoning on A.P. #106-40-03, a parcel sited amidst residential uses, shall be changed to a planned residential district.

(3) (b) Marshall Boatworks. The Marshall Boatworks/Post Office area shall be rezoned from C-VCR with the Boatworks as a permitted use. This will encourage continuation of this area as a residential/commercial mixed use while supporting its potential as a community activity center and gathering place.

- 4) On page 215, amend section e. (2) as follows:

Changes in commercial land use and zoning as specified in LCP Policy 3 (e) on Recreation and Visitor-Serving Facilities, page 48, shall be adopted. In addition, the Marshall Boatworks and North Shore Boats shall be rezoned A-2 to RCR.

THEREFORE, that the Marin County Board of Supervisors hereby further approves the Local Coastal Plan Unit II amendment consisting of the following Title 22 Zoning Code amendments within the coastal zone:

<u>Assessor's Parcel</u>	<u>Location</u>	<u>Existing Zoning</u>	<u>Proposed Zoning</u>
104-170-23	N. Shore Boats	C-RSP-0.5	C-ARP-2
106-010-02	Marshall	C-CP	C-VCR
106-010-03	Marshall	C-CP	C-VCR
106-010-05	Marshall	C-CP	C-VCR
106-010-06	Marshall	C-CP	C-VCR
106-010-07	Marshall	C-CP	C-VCR
106-010-08	Marshall	C-CP	C-VCR
106-010-09	Marshall	C-CP	C-VCR
106-010-10	Marshall	C-CP	C-VCR
106-010-11	Marshall	C-CP	C-VCR
106-020-01	Marshall	C-CP	C-VCR
106-020-14	Marshall	C-CP	C-VCR
106-020-27	Marshall	C-CP	C-VCR
106-020-34	Marshall	C-CP	C-VCR
106-020-35	Marshall	C-CP	C-VCR
106-020-36	Marshall	C-CP	C-VCR
106-050-01	Post Office/Boatworks	C-ARP-2	C-VCR
106-050-02	Post Office/Boatworks	C-ARP-2	C-VCR
106-050-11	Post Office/Boatworks	C-RCR	C-VCR
106-050-12	Post Office/Boatworks	C-RCR	C-VCR

Definition of Zoning:

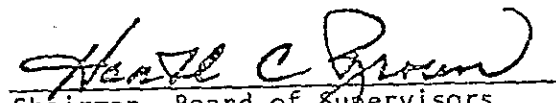
C-RSP-0.5 = Coastal Residential Single Family Planned
C-CP = Coastal Commercial Planned
C-RCR = Coastal Resort Commercial Recreation
C-ARP-2 = Coastal Agricultural Residential Planned (2 acres/unit)
C-VCR = Coastal Village Commercial

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 13th day of Oct., 1987, by the following vote to wit:

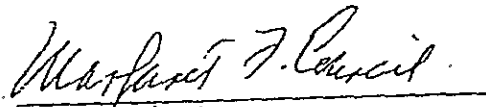
AYES: Supervisors: Al Aramburu, Bob Stockwell, Bob Roumiguere, Harold Brown

NOES: Supervisors: None

ABSENT: Supervisors: Gary Giacomini


Chairman, Board of Supervisors

Attest:


Clerk



Board of Directors

Bridger Mitchell, Ph.D.
President

Ken Drexler, Esq.
Vice-President

Terence Carroll
Treasurer

David Weinsoff, Esq.
Secretary

David Wimpfheimer
Director

Jerry Meral, Ph.D.
Director

Daniel Dietrich
Director

Cynthia Lloyd, Ph.D.
Director

Staff and Consultants

Morgan Patton
Executive Director

Ashley Eagle-Gibbs, Esq.
Conservation Director

Jessica Reynolds Taylor
Membership Director

Catherine Caufield
Tomaes Dunes Consultant

April 19, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903
Via Electronic Mail: BOS@marincounty.org /
marinLCP@marincounty.org

Re: Marin County Local Coastal Program amendments

Dear Supervisors:

The Environmental Action Committee of West Marin (EAC) submits the following comments regarding the Marin County Board of Supervisors' (Board) consideration of the California Coastal Commission's (Commission) conditional certification of the Marin County (County) Local Coastal Program (LCP) Update with suggested modifications. Since 2008, EAC has been actively involved in the County's LCP amendment process, participating in both County and Commission public hearings.

EAC recently attended the March 20, 2018 LCP Update Public Workshop and submitted comments recommending action by the Board to accept all five of the non-environmental hazards amendments as modified by the Commission and to prioritize work on the environmental hazards amendment revisions.

Today, EAC is writing to supplement our March 20 public testimony and March 14, 2018 written comments to further encourage the Board to consider the broad coastal resource implications if the LCP Update amendments are not accepted, throwing away a decade of public work and further delaying access to the climate change planning tools our communities need.

Do Not Discard a Decade of Public Work and Compromises

The County embarked on the process to comprehensively amend the LCP in 2008. This decade-long effort has involved multiple stakeholder groups, community members, and agencies who have participated in the public process to ensure the LCP amendments take into consideration the communities' needs. The process has in many ways been an example of community collaboration and partnership, and, throughout, EAC has advocated for as much public involvement as possible.

The County undertook an enormous task in 2008 when it decided to revise the entire LCP rather than specific LCP sections. With such a comprehensive overhaul, there will undoubtedly be imperfections that might require future amendments. This would be a natural progression to ensure the LCP continues to fit within the local vision of, and planning for, our coastal communities.

The LCP amendments do not satisfy each individual or each group in every respect. In short, the LCP amendments are not perfect for the agricultural community, the environmental community, the residential community, or many of the other community sub-sets; but they are the result of a decade of work balancing the needs for community development and land-use with the protection of our coastal resources, as mandated by the California Coastal Act (Coastal Act).

As a result of this decade long public process, many compromises have been made by *all* interested parties and agencies. However, if the Board does not accept the amendments on April 24th and the May 2nd deadline is missed, all of the LCP amendments will be re-opened.

EAC, and others, are not likely to rely on past compromises if the LCP is not accepted on April 24th. Instead, EAC and others will revisit those compromises. As a non-profit organization whose mission is to protect and sustain our lands, waters, and biodiversity for future generations, we will continue to push harder for even stronger environmental protections if the LCP amendments are re-opened. In particular, EAC will insist on stronger wetland and other coastal resource policies, as well as stronger climate change policies.

The LCP Amendments are Closely Interconnected and Should All be Accepted or All Rejected

Understanding that County staff takes issue with certain LCP amendments (in particular Amendments Three and Seven), it may seem appealing to accept *only* certain amendments. But accepting only certain amendments will make implementation and continued planning problematic. The LCP amendments were approved by the Commission as an interconnected package, and it is extremely fraught to take a piecemeal approach to accepting or rejecting them.

EAC is concerned that accepting certain Land Use Plan (LUP) amendments without the companion Implementation Plan (IP) amendments ignores the Commission's LCP standard of review. The Commission's July Revised Findings state, "[t]he standard of review for the proposed LUP amendment is the Coastal Act and the standard of review for the proposed IP

amendment is whether it is consistent with and adequate to carry out the LUP with suggested modifications."¹

For example, rejecting Amendment Three without also rejecting Amendment Two is highly problematic, as the two amendments are closely connected. Amendment Three implements the land use policies of Amendment Two. The Commission has already considered and rebuffed the very arguments County staff is raising now as objections to Amendment Three. If the Board rejects Amendment Three, but accepts Amendment Two, the Commission will continue to rebuff County staff's arguments. You cannot succeed in changing one of these amendments without changing them both.

Staff also recommends the Board rejects Amendment Seven. Assuming the rejection of Amendments Two, Three, and Seven, we will be left with Amendments One and Six. Amendment One contains all the non-agricultural land use policies, but no implementing code. These policies will be frozen in time and will likely be outdated before they ever come into force. Amendment Six contains implementation measures for permit administration, but there will be no permits to administer, because the rest of the LCP is missing.

While it is EAC's recommendation that the Board accepts all five amendments, if the Board is deciding between 1) accepting only some of the LCP amendments, or 2) rejecting all of the amendments, then the latter is preferable. From EAC's perspective, the only rational choice is to accept all of the non-environmental hazards amendments. **We highly recommend accepting all five amendments so that we can turn to climate change adaptation planning for our coastal communities.**

It is important to remind ourselves of the end goal and not get lost in the weeds over secondary issues that may be resolved at a later time through smaller, and more easily digestible amendments, also subject to a full public process. For example, any concerns with Amendment Seven and its relationship to the environmental hazards sections should be raised as subsequent amendments when the environmental hazards sections are brought back to the Commission. It should be noted that our coastal communities have been waiting to begin the public process around environmental hazards for the last seventeen months.

Overall, the LCP Update provides critical updates to our outdated 1981 planning policies and implementation measures, and most importantly – once the environmental hazards sections are completed – critical planning tools for our communities to adapt to the impending threats of sea-level rise.

Our Coastal Zone Needs Climate Change Adaptation Planning Tools as Soon as Possible

To allow the conditional certification to expire would be fiscally, ecologically, and administratively irresponsible. The delay in sea-level rise adaptation planning that would result from the expiration would have significant impacts on West Marin's coastal resources.

¹ California Coastal Commission, *Marin LCP Update Revised Findings*, July 13, 2017, page 18, available at: <https://www.marincounty.org/~media/files/departments/cd/planning/local-coastal/newdocs/ccc-revised-findings-staff-report-and-addendum-71417.pdf?la=en>

If the LCP Update is not accepted, the 1981 Certified LCP will remain in effect. On face value, this may sound like an excellent idea as the 1981 Certified LCP is a forward-thinking document that has allowed for a balanced approach to Coastal Zone development and allowed our coastal communities to prioritize a vision for the future to provide maximum protection of ecological resources. Unfortunately, the threat of sea-level rise was unforeseen thirty-seven years ago, and the 1981 Certified LCP lacks appropriate planning tools to cope with development in the Coastal Zone and flood areas.

For example, Unit I of the 1981 Certified LCP prohibits development in the 100-year floodplain of Easkoot Creek, and thus impacted property owners are severely limited in adapting to sea-level rise.² Additionally, the Federal Emergency Management Agency regulations in some cases conflict with the 1981 Certified LCP, so new or reconstructed development requires variances that are legally questionable. Finally, without policies to ensure protection of coastal resources and provide comprehensive guidance for planning efforts, development applications will have to be handled on a case-by-case basis. This will harm coastal resources, as the available planning tools fail to evaluate the cumulative development impacts. In addition, this approach will be terribly inefficient and result in an excessive burden for County and Commission staff.

Without an LCP that addresses environmental hazards, how does the Board, and the County's Community Development Agency, propose to handle the extreme flooding, which we are already experiencing, in areas like Easkoot Creek?

In short, without an LCP Update that is able to protect coastal resources, West Marin will be left with an unsystematic, disjointed approach that fails to account for foreseeable cumulative impacts to public access, environmentally sensitive habitat areas, scenic and visual resources, and community character.

Environmental Hazards and C-SMART Must be Prioritized

There is an urgent need to complete the amendments to the environmental hazards sections of the LCP. The County's coastal communities cannot adequately plan for sea-level rise without the hazards amendments. Delaying environmental hazards years into the future jeopardizes the C-SMART process and our communities' ability to adapt to impending sea-level rise.

C-SMART's primary objective was to amend the LCP to include sea-level rise adaptation measures. Not only has this objective not been achieved, but the LCP amendments for environmental hazards have twice been rejected by the Commission for being inconsistent with the Coastal Act. The last publicly viewed version of the hazards sections was submitted to the Commission in November 2016 and subsequently withdrawn by the County in 2017.

To cope with sea-level rise and flooding, it is essential that the County prioritizes its LCP and other environmental hazards planning as soon as possible. The LCP process is the fundamental

² See *Marin County Certified LCP*, 1981, pages 79-80, available at:

<https://www.marincounty.org/depts/cd/divisions/planning/local-coastal-program/plans-and-docs>

tool for addressing sea-level rise in the Coastal Zone³, and the C-SMART program requires the LCP update of the environmental hazards sections to ensure a comprehensive and consistent planning process.

For example, in February 2018, the County approved an application for funding to conduct a feasibility study on a nature-based green infrastructure project “to develop a resilient beach and dune ecosystem that enhances existing habitats, and public access, supports vibrant recreational opportunities for users of all socioeconomic circumstances, and provides flood and erosion protection against coastal hazards and future sea level rise⁴.” The County is attempting to move forward with sea-level rise planning without the necessary framework provided by an LCP that addresses the environmental hazards we face now and in the future.

We encourage the County to adopt adaptation planning phases that are compliant with existing laws and regulations, including the Coastal Act, and that promote nature-based strategies for coastal resource protection, public safety, and public access. In order to do this, the County, alongside the Commission, must accelerate work on the environmental hazards sections of the LCP, allowing for additional public input.

Conclusion

In conclusion, EAC hopes the Board values the past decade of work, and strongly recommends the Board accepts all five non-environmental hazards LCP amendments and begins the important work of resubmitting the environmental hazards amendments before the end of 2018, so we can all begin to reap the benefits of an updated LCP. As mentioned earlier in this letter, despite the fact that the 1981 Certified LCP has, in many cases, preferable environmental protections compared to the LCP amendments, because adequate environmental hazards policies are completely absent from the 1981 Certified LCP, we are encouraging acceptance of all five non-environmental hazards LCP amendments so that we can move forward with hazards.

Thank you for your continued hard work on the LCP Update, and for the opportunity to comment. We look forward to continuing our long-standing participation in the County’s LCP Update and the C-SMART planning process.

Respectfully,



Morgan Patton
Executive Director

³ California Coastal Commission, *Sea Level Rise Planning & Permitting*, accessed April 18, 2018, available at: <https://www.coastal.ca.gov/climate/slr/planning-permitting/>

⁴ Marin County Community Development Agency, *Staff Report*, February 27, 2018, page 3. available at:

http://marin.granicus.com/DocumentViewer.php?file=marin_2418258a0739fcf6069c1ffa266d679b.pdf.

April 24, 2018 Board of Supervisor's Meeting
Agenda Item #20, Local Coastal Program Amendments

Comments Received April 23-24

Lacko, Leslie

From: Drumm, Kristin
Sent: Tuesday, April 24, 2018 5:29 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Please Vote "NO" on LCP Amendments 3 and 7

From: Jack Sylvan <jacksylvan@yahoo.com>
Sent: Monday, April 23, 2018 10:57:55 PM
To: MarinLCP
Cc: Liebster, Jack; Drumm, Kristin
Subject: Please Vote "NO" on LCP Amendments 3 and 7

Dear Supervisors,

We are writing to strongly urge you to vote no on Amendments 3 and 7 of the LCP. We are homeowners of property in Bolinas and these amendments threaten our ability to maintain our property. There are several aspects of the amendments that are unnecessarily problematic, including the proposed amendment to IPA section 22.130: Piers and Caissons re "Shoreline Protective Device". The change to the language essentially removes the regulatory distinction in the proposed County Amendments between a commonly used building foundation type and shoreline armoring structures. Considering the advanced age of many homes in our coastal communities, including our 1922 home, the inclusion of piers and caissons in the above definition means that single-family remodel projects would be subject to the same extensive submittal requirements, standards and conditions of approval as a proposal to construct a new sea wall. This will severely threaten our community's ability to maintain our aging homes. As the County well knows, if homes are not able to be maintained, they ultimately will become a liability that the public agencies will have to deal with. This is a solution that is good for no one.

Thank you for your attention and please vote NO on Amendments 3 and 7 of the LCP.

Regards,

Jack and Deb Sylvan

Lacko, Leslie

From: Drumm, Kristin
Sent: Tuesday, April 24, 2018 5:30 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: LCP

From: Josie Plaister <jjplaister@gmail.com>
Sent: Tuesday, April 24, 2018 1:27:30 AM
To: Drumm, Kristin
Subject: LCP

I'm a West Marin, East Shore home owner and resident. I respectfully request that the amendments to the LCP be rejected and that the LCP amendment process end. It's been convoluted and filled with compromises that your constituents don't accept. Time to start over. We reject this plan and process.

I support the position of the East Shore Planning Group.

Josefina Plaister

Lacko, Leslie

From: Drumm, Kristin
Sent: Tuesday, April 24, 2018 8:07 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: LCP- I SUPORT ESPG POSITION

From: Jaume Pons <jaume_pons@me.com>
Sent: Tuesday, April 24, 2018 9:08:52 AM
To: BOS; MarinLCP; Drumm, Kristin
Subject: LCP- I SUPORT ESPG POSITION

I am a resident of the East Shore, and I strongly support the position of the East Shore Planning Group, asking that all the Coastal Commission 2016 amendments be rejected. If this partial LCP gets approved the coastal commission will have even more leverage to get their language in the rest of the of document at great detriment of all of us. It is clear that the costal commission wants to set precedent and example using us. Lets follow the example of the rest of coastal counties in California and revert to the old LCP and work on individual amendments as needed.

Thank you

Jaume Pons (Marshall)

Lacko, Leslie

From: Drumm, Kristin
Sent: Tuesday, April 24, 2018 8:07 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Local Coastal Program Amendments #3 and #7 - OPPOSED

From: Lokelani Devone <lokedevone@icloud.com>
Sent: Tuesday, April 24, 2018 9:10:17 AM
Cc: Drumm, Kristin; Liebster, Jack
Subject: Local Coastal Program Amendments #3 and #7 - OPPOSED

Marin County Board of Supervisors
[3501 Civic Center Drive, Suite 329](#)
[San Rafael, CA 94903](#)

[April 24th](#) Meeting of the Board of Supervisors
Local Coastal Program Amendments #3 and #7
Lokelani Devone - OPPOSED

Dear President Connolly and Members of the Marin Board of Supervisors,

I am a homeowner and resident of West Marin and I ask you to vote No on Amendments 3 and 7 of the LCP [on April 24th](#)".

Amendments 3 and 7, as proposed, contain language that ignores the thoughtful and carefully researched input provided from local residents of Marin County. As a result, these amendments are seriously flawed and contravene the rights of local communities. Both Amendment 3 and Amendment 7 contain provisions that, if adopted, would impose burdensome and impractical permitting requirements, contrary to the Coastal Act. As an owner of a home built since 1973, I am particularly concerned about losing Coastal Act protections due to the definition of 'existing' in Amendment 7.

As County staff pointedly notes, they contain language inconsistent with long established practice or fundamental principles under the Coastal Act, impermissibly infringe upon local zoning control, are inconsistent with local County of Marin policies, practices, and customs, lack sufficient precision to allow clear and consistent implementation, and are beyond the reasonable application of the Act.

Lacko, Leslie

From: Drumm, Kristin
Sent: Tuesday, April 24, 2018 8:07 AM
To: Lacko, Leslie; Gurley, Margaret
Subject: Fwd: Today's LCP meeting 4-24-18

From: Nancy Sur <nancys@dacostaglobal.com>
Sent: Tuesday, April 24, 2018 9:50:54 AM
To: BOS; MarinLCP; Drumm, Kristin
Subject: Re: Today's LCP meeting 4-24-18

My address is 19885 State Route One, Marshall, CA

Nancy Sur
DaCosta Global, Inc.
nancys@dacostaglobal.com
415-379-9382

www.dacostaglobal.com

On Apr 24, 2018, at 7:24 AM, Nancy Sur <nancys@dacostaglobal.com> wrote:

Good morning,

I am a resident of the East Shore, and I strongly support the position of the East Shore Planning Group, asking that all the Coastal Commission 2016 amendments be rejected.

I will be at today's meeting to evince my support for my community.

Thank you for your consideration.

Nancy Sur
DaCosta Global, Inc.
nancys@dacostaglobal.com
415-379-9382

www.dacostaglobal.com

Local Coastal Program Revision

Paul da Silva <PdaSilva@marin.edu>

Tue 4/24/2018 4:43 AM

To: BOS <BOS@marincounty.org>;

Dear Supervisors--

In 1972, I was one of many volunteers who worked on the campaign to pass Proposition 20, the California Coastal Conservation Initiative. All of us were concerned that the California coast was at risk from large-scale development. The campaign was a furious one, with the opposition running ads that said "Don't lock up the coast!" Of course, we were concerned that that was exactly what would happen if no controls over development were implemented.

Our brochure, printed in very simple type on a grey background, was entitled "A Very Reasonable Proposition." The voters agreed, passing Proposition 20. Four years later, the California Legislature extended its protections with the California Coastal Act of 1976. One of the most reasonable features of both pieces of legislation was de-centralization. This allowed local input into the coastal planning process.

If we are to keep this process reasonable, we must take into account the special characteristics of our Marin County environment. One of these is a healthy local agricultural system. The proposed update to the Marin Local Coastal Program (LCP) has aroused much opposition from local farmers and ranchers.

Their voices should be heard. Here we do not need to unite in opposition to the type of outside development interests that threatened so much of Marin in the past. Rather, we should continue the discussion with an important segment of our own population. We should value them as important stewards of our land and water, who often understand the complexities of ecosystem management better than distant regulators.

The staff of the Marin County Community Development Agency has recommended postponing approval of the revised LCP until the remaining issues of disagreement can be worked out. I urge you to follow their recommendation.

Thank you.

Dr. Paul G. da Silva
Department of Life and Earth Sciences

Marin LCP - Public Testimony

morgan@eacmarin.org

Tue 4/24/2018 4:34 AM

To: BOS <BOS@marincounty.org>;

Morgan Patton would like information about:
Dear Clerks of the Board,

The Environmental Action Committee of West Marin (EAC) respectfully requests a total of eight minutes to speak at the Board of Supervisors Meeting on April 24, 2018 concerning Agenda Item 20., Consideration of Local Coastal Program ("LCP") Amendments 1, 2, 3, 6, and 7 as modified by the California Coastal Commission ("CCC"). EAC will have members of our organization present who can cede time to the organization if that is needed.

Thank you for consideration of our request.

Sincerely,

Morgan Patton
Executive Director
415-663-9312
morgan@eacmarin.org

FW: Please Reject Local Coastal Plan Update

Kutter, Rhonda

Mon 4/23/2018 6:30 PM

To: BOSAgenda <BOSAgenda@marincounty.org>;

Rhonda Lynn Kutter
Aide to Supervisor Dennis Rodoni
Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael CA 94903
415-473-3246; RKutter@MarinCounty.org

From: Katharina Sandizell-Smith [mailto:katharinasandizellsmith@hotmail.com]

Sent: Monday, April 23, 2018 10:51 AM

To: Rodoni, Dennis ; Kutter, Rhonda

Subject: Please Reject Local Coastal Plan Update

RE: LCP Update

Dear Supervisors,

I am deeply concerned that the Local Coastal Plan Update will destabilize Marin's ag economy and make it difficult for agriculture to survive and prosper! We are so fortunate to have award-winning dairy products, wonderful produce, and shellfish!

I am against the proposed changes that food production would be reclassified as "development" making it harder for farms to adapt without getting caught up in bureaucratic red tape with expensive permit costs.

Santa Barbara County faced a similar dilemma and rejected their LCP update in 2011.

I urge the Supervisors to keep the 1981 LCP in place and reject the current LCP update!

Thank you!

Katharina Sandizell and Barry Smith

Fwd: LCP Vote on April 24th

Lacko, Leslie

Mon 4/23/2018 7:51 PM

To: BOSAgenda <BOSAgenda@marincounty.org>;

Please include with agenda item 20

Sent from my iPhone

Begin forwarded message:

From: "Drumm, Kristin" <KDrumm@marincounty.org>
Date: April 23, 2018 at 12:35:02 PM PDT
To: "Lacko, Leslie" <LLacko@marincounty.org>, "Gurley, Margaret" <MGurley@marincounty.org>
Subject: Fwd: LCP Vote on April 24th

From: annebos@aol.com <annebos@aol.com>
Sent: Monday, April 23, 2018 2:19:03 PM
To: MarinLCP
Cc: Drumm, Kristin; Liebster@marincounty.org
Subject: LCP Vote on April 24th

Dear Board of Supervisors,

I am a homeowner in West Marin, and I ask you to vote **NO** on Amendments 3 and 7 of the LCP on April 24th

Thank you, Anne Boswell Bertrand

College of Marin
Kentfield, CA 94904

(415) 485-9542

You have been conferred with the authority and the responsibility to protect the interests of your constituents. However, our input has been repeatedly ignored by the Coastal Commission staff in drafting these Amendments. I urge you to act on our behalf. Please vote “No” on Amendments 3 and 7 of the LCP [on April 24th.](#)

Sincerely yours,

Lokelani Devone
55 Dipsea Road
Stinson Beach, CA 94970

Proposed new LCP

pwdickens@yahoo.com

Mon 4/23/2018 4:56 PM

To: BOS <BOS@marincounty.org>;

Pat Dickens would like information about:

Please reject the proposed LCP and keep the 1981 LCP in place. This the right thing to do for our agriculture here. Thank you for all your hard work for our communities. Pat Dickens, Bolinas.

rescind letter of 4/17/18

arianne Dar <ariannezd@gmail.com>

Mon 4/23/2018 4:37 PM

To: BOS <BOS@marincounty.org>;

Cc: MarinLCP <MarinLCP@marincounty.org>; Kutter, Rhonda <RKutter@marincounty.org>;

4/23/18

Marin County Board of Supervisors

3501 Civic Center Drive, Suite 329

San Rafael, CA 94903

Via Electronic Mail: BOS@marincounty.org and marinLCP@marincounty.org

Dear Board of Supervisors,

I sent a letter dated 4/17/18 in support of passing the LP with the current proposed amendments. I now wish to rescind that letter. I have come to understand that the issues involved are much more complex than I had understood and wish to defer to county staff who I do trust to have the best interests of all of our communities at heart.

It remains true that affordable housing projects in Bolinas are very much hindered by the LCP of 1982 and I do hope the county can find a way to work with the Coastal Commission to come up with amendments that not only preserve our natural coastal resources but also allow the communities that service visitors to the areas, to survive and thrive. I believe it is important for the Coastal Commission to understand that without making these communities viable and habitable, there will be no services for the visitors they hope to give access to.

I thank county staff for their persistent work in trying to make amendments that serve our communities and hope that we can figure out a amicable solutions moving forward.

Best,

Arianne Dar

Executive Director, Bolinas Community Land Trust

P0 Box 805

Bolinas CA 94924

415-868-8880 office

415-713-4519 cell

Board of Sup's Meeting, 4/24, re: Local Coastal Program (LCP) Amendments

Don Marzetta <dmarzetta@gmail.com>

Mon 4/23/2018 8:21 PM

To: MarinLCP <MarinLCP@marincounty.org>; BOS <BOS@marincounty.org>;

TO: Board of Supervisors Meeting, April 24, 2018

RE: Local Coastal Program (LCP) Amendments

FROM: Don Marzetta and Cynthia Hester, Owners of 19925 Shoreline Hwy, Marshall, CA 94940

President Connolly and member of the Board,

We as owners of 19925 Shoreline Hwy, Marshall, CA, 94940 ask the Board of not to approve any of the LCP amendments that were approved by the Coastal Commission in November 2016 and to postpone further action on the proposed Environmental Hazards amendments, deferring to adaptation planning of the C-SMART program.

Issues Presented at the March 20 Workshop on Modifications to the County's Local Coastal Program Amendments (Amendments Nos. 3 and 7). In their March 20 letter to the Board of Supervisors, Brian Crawford and Jack Liebster identified these items for discussion:

Serving Uses

7-8. Lowest Density Required for Widespread Areas of Any Hazard

With respect to Amendment 3, we have previously supported the agricultural community on this issue, and our membership includes owners and employees at West Marin ranches. We agree with many in the agricultural community that this proposed amendment is unnecessary and confusing. It should not be approved.

With respect to Amendment 7, we disagree with the language approved by the Coastal Commission on 7-1, 7-3, 7-6 and 7-7 listed below. These are extremely problematic for us as owners, our community and our efforts to preserve housing for West Marin residents.

7-1. Definitions of "Existing" and "Existing Structure"

7-3 IPA section 22.130: Piers and Caissons re "Shoreline Protective Device"

7-6 IPA section 22.64.140 – Public Facilities and Services

7.7 Section 22.64.170 – Mixed Uses in VCR Zone; Parks, Recreation, and Visitor

There are some suggestions that the Board could pass these provisions with plans and promises to make corrections and modifications at a later date. We do not have confidence in that approach for these amendments or others.

We agree with the recommendation of the CDA in their letter to you dated April 24, 2018 for this hearing -- that these amendments not be approved, and ask that you NOT approve these amendments.

AMENDMENTS NOS. 1, 2 AND 6.

As owners, we disagree with the recommendations of the CDA in their letter to the Board for this hearing dated April 24, 2018 (the "CDA LETTER"). We believe each of these amendments should be rejected.

As owners, we do not believe and never has believed that a wholesale amendment to the LCP is necessary or desirable.

Since the County initiated a process to amend the LCP about 10 years ago, our board at ESPG has been deeply involved in the process, primarily to defend against certain proposals that would be detrimental to our community. In the entire process, there has never been a proposal that we believed was necessary or beneficial for our community.

The process was initiated by the County primarily to conform with the format of the Countywide Plan and non-coastal sections of the Development Code and to consolidate Units I and II of the LCP. This can clearly be seen in the CDA Staff Report for the Planning Commission workshop on August 31, 2011. Amending the LCP originally began primarily as a matter of good housekeeping.

However, once the County's LCP drafts went on to the Coastal Commission, it became a vehicle for the Coastal Commission staff to insert many of their own ideas for the regulations that they believe should apply to our communities. Advocacy from environmental, agricultural and community groups also had the effect of expanding the process and making it more cumbersome. The rest is history – a myriad of proposals that added many layers of regulatory requirements with no real benefits to us as owners, or our community.

There are some areas where limited amendments might be appropriate to update the 1982 version of the LUP and the Interim Development Code. However, in the existing LCP has served our community and others very well for many decades, and it is well understood.

Also, the attempt to put through a huge amendment has resulted in many provisions where, because of the pressure to accommodate demands of the Coastal Commission staff, undesirable provisions have been added, and accepted by the County.

We heard that concerns have been expressed that if the County does not go forward with the process or at least give the Coastal Commission some political victory, the County and its residents may face retribution in the form a refusal to assign Coastal Commission staff to consider new Marin County LCP amendments, by forcing their agenda on permit applicants, or by increasing enforcement activities. With all due respect, even if true, those are not good reasons to make bad policy.

Just because the LCP has served us for many years, like the US Constitution, does not mean that it needs a major revision and re-write. The existing LCP can continue to serve as the primary planning document for our area without wholesale amendment, while specific issues can be narrowly addressed as necessary. That approach would serve us as owners and other communities and advocacy groups well.

Environmental Hazards

Even though Environmental Hazards ("EH") is not before the Board at this time, the subject warrants special attention. It is the elephant in the room.

With the inevitability of sea-level-rise ("SLR"), this portion of the existing LCP would benefit from a major well-considered amendment at some point. However, we believe the proposal to amend this section in the upcoming months is flawed.

Marin County and the Coastal Commission should acknowledge that we simply do not yet know enough about SLR nor how it will affect the very different coastal areas in West Marin to begin to draft new regulations. Nor do we have any understanding of the technologies that are and will be available to address the challenges, or how special tax districts like our Marshall Community Wastewater system could play a part in developing programs for multiple properties. We need to have a better understanding of those issues before adopting binding regulations that could compromise their implementation. We do not need to look far to see the threat of developing EH regulations at this time.

The Coastal Commission's SLR Adaptation Policy Guidances clearly show the rigid regulatory approach that will be required today for Coastal Commission approval of an EH amendment.³ It is the opposite of an adaptive management approach. Provisions of this sort would seriously damage the values of our homes and businesses. They would effectively preclude the use and enjoyment of our properties well before they are impacted by SLR. It is early condemnation.

Marin County's CDA is leading the nation with a positive initiative to help our communities plan for SLR, especially the award-winning C-SMART program⁴. That The Marin County CDA has just received the prestigious "Gold National Planning Achievement Award for Environmental Planning" from the American Planning Association for its C-SMART program. program, already with preliminary planning proposed for our area in conjunction with Caltans, will help explore what approaches are practical in the various West Marin coastal areas and identify legal and financial resources. Therefore, it would be appropriate to incorporate that learning into an amendment to the EH provisions. It is premature to amend EH now on an abstract and uninformed basis. Indeed, the EH provisions, if adopted, could cripple this process.

We think the process has had SOME good moments. Stopping the effort to approve a massive amendment to the LCP at this time will not result in any serious loss of the time and money that has been invested in the project as many benefits have already been achieved.

1. We have learned an enormous amount – the needs and concerns of various constituencies, possible solutions, and the process of dealing with the Coastal Commission and its staff in amending portions of the LCP.
2. We have learned, in retrospect, that it was not wise to attempt a massive re-write of the entire LCP. Rather, specific issues should have been targeted for amendment, which is the practice of most other cities, counties and governing bodies subject to LCP requirements. The sheer weight of this process and the willingness of the County to “deal” some issues to achieve the goal of completing a huge amendment has been counterproductive and, in some cases, has resulted in the acceptance of bad policy. The good news is that now, if the amendments are rejected, the County has an opportunity to focus its attention on needed amendments, while still benefitting from all that we have learned from this process.
3. Most importantly, we owners have become very engaged and informed about these planning issues, and we are taking an active role in helping shape the future.
4. Specific areas for targeted amendments have been identified, which can go forward soon. There is no need to wait for the entire LCP to be amended, as the work on them has mostly been done. These include:
 - a. Various provisions that would support agriculture.
 - b. The seven items identified as the LCP “accomplishments” on page 13 of the CDA LETTER. In fact, their approvals will most likely be expedited by targeted amendments (which could be approved this summer). Otherwise, they will not be effective until the IP amendments are approved, and the entire process is completed.
 - c. Some technical and process improvements.
 - d. Research and development of planning strategies for Environmental Hazards, as discussed above.

Stopping the process now and realizing its gains would be far preferable to more endless efforts to amend the entire LCP.

Therefore, we urge the Board of Supervisors to reject the Coastal Commission version of the LCP amendments, to rescind any prior approvals and to cease efforts to amend the Environmental Hazards sections. We understand that this would mean that the proposed massive amendment process would cease entirely, which we believe is the best course for the County and our coastal communities.

We certainly appreciate the extraordinary efforts by the Community

Development Agency and particularly by Jack Liebster and Brian Crawford to consider and accommodate

the interests of the East Shore Planning Group and us as proud owners.

Regards,

Don Marzetta and Cynthia Hester
Owners of 19925 Shoreline Hwy,
Marshall, CA 94940

LCP

Dana Cappiello <dana.cappiello@yahoo.com>

Mon 4/23/2018 4:00 PM

To:MarinLCP <MarinLCP@marincounty.org>; BOS <BOS@marincounty.org>;

I would like to request that none of the amendments be approved and that the LCP amendment process be halted, including Environmental Hazards.

Thanks,
Dana Cappiello
22667 Highway One
Marshall, Ca 94940

Supporting Agriculture in West Marin

penny@regenerativedesign.org

Mon 4/23/2018 3:27 PM

To: BOS <BOS@marincounty.org>;

Penny Livingston would like information about:
Dear Board of Supervisors,

I'm writing to support local agriculture in West Marin. The family farms that have learned to produce organic vegetables and other high quality food including grass fed animals producing dairy, meat, eggs, cheese butter etc. This is a unique and precious resource that must be preserved as much as the wild lands. Family farmers are an endangered species that need our support now more than any other time in history. We need to recognize that our local farms and ranches are not only the responsibility of the farmers to preserve, it is the responsibility of the community as this is all of our agriculture. We are so blessed to have access to clean, fair safe food. Farmers and ranchers have so many issues to deal with, not only with permits and regulations but also due to ecological issues such as climate change, drought, floods, unseasonable storms that we all know about. They need our support. We look to you to help make sound decisions that support our local community, ecology and health. Please REJECT the LCP update. Thank you for your attention and for the good work you do.

URGENT! Proposed LCP Amendments

Rozalynd Roos Merrill <roz@rroos.com>

Mon 4/23/2018 4:53 PM

To:MarinLCP <MarinLCP@marincounty.org>; BOS <BOS@marincounty.org>;

Dear President Connolly and the Board of Supervisors,

As a property owner and resident of Marshall, California, I am deeply concerned with ALL of the proposed LCP amendments. I strongly beg of the Board of Supervisors to please REJECT the Coastal Commission version of the LCP amendments, and to rescind any prior approvals and to cease efforts to amend the Environmental Hazards sections.

Our community has carefully studied these amendments and the history behind them. We stand strongly against their approval, and appreciate your consideration and your vote to protect our community.

Sincerely,
Rozalynd Roos Merrill
20155 State Route 1
Marshall, Ca 94940

Voice Message from Barbara Fram
Saturday 4/21/18, 6:37 pm

My name is Barbara Fram. I live in San Anselmo. I've lived here 60 years. I'm calling because I'm very concerned about the current Local Coastal Program update and I'm urging you to reject the LCP update. Because, it does not support the current agriculture programs set in place, which MALT has supported. The recent article that appeared in the Marin IJ clearly showed that it will destabilize Marin's agricultural economy. I'm asking you not to support the LCP update.

Thank You. My number is 415-456-2799

To hear the voice message, access number: 415-473-2000

BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT

BCPUD BOX 390 270 ELM ROAD BOLINAS CALIFORNIA 94924 415 868 1224



April 23, 2018

Via E-Mail: MarinLCP@marincounty.org
BOS@marincounty.org

Marin County Board of Supervisors
Marin County Civic Center
3501 Civic Center Drive
Room 329
San Rafael, California 94903

Re: Consideration of the Local Coastal Program Amendments 1, 2, 3, 6 and 7 as Modified by the California Coastal Commission.

Dear Supervisors:

On behalf of the Board of Directors of the Bolinas Community Public Utility District ("BCPUD"), I submit this letter of support for your Community Development Agency staff's recommendation that the Board of Supervisors accept Local Coastal Program ("LCP") Amendments 1, 2 and 6 as modified by the California Coastal Commission ("CCC") staff and not accept Amendments 3 and 7 as modified by the CCC staff.

To begin with, we commend the staff of the Marin County Community Development Agency, and specifically the staff of the Planning Department, for their collective hard work and diligence throughout the lengthy and challenging process of updating the County's LCP. Over many years, your staff conducted an open and interactive process whereby staff members listened carefully to the concerns and input from stakeholders, interest groups and residents and crafted detailed amendments to capture that input and reflect those concerns, consistent with the Coastal Act. The LCP Amendments as originally submitted by the County to the CCC significantly improved and updated the existing LCP for Marin County; very importantly, the original amendments did so while ensuring the protection of coastal resources, including the historical character of our coastal villages and the rights of those who live and work here.

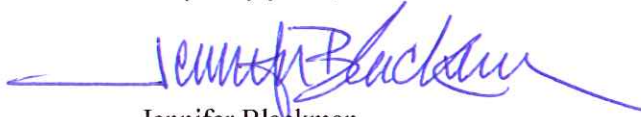
Unfortunately, the extensive modifications to the LCP Amendments drafted by CCC staff deviate considerably from the policies and standards approved by the Board of Supervisors and many stakeholders are deeply dissatisfied with the resulting work product. That said, at this point in time, in order to preserve the considerable progress that otherwise has been made with respect to updating the LCP land use policies and permit/processing and administration rules, we concur with the County staff's recommendation that the Board of Supervisors accept Amendments 1, 2 and 6 as modified by the CCC staff. However, we strongly urge you not to accept Amendments 3 and 7 as modified by CCC staff. With regard to Amendment 3, we support the comments submitted in opposition to this Amendment by County staff, the Marin County Farm Bureau and others in the agricultural community. As for Amendment 7, we agree that all of the six points of concern about the CCC staff modifications described in the County staff's report warrant a rejection of this Amendment.

Board of Supervisors
April 23, 2018
Page Two

We are aware that some of our neighboring coastal stakeholders are urging you to reject all of the LCP Amendments as modified by the CCC staff. The frustrations of our neighbors is understandable; there is a pervasive view that the local part of the coastal program update process has been usurped by the staff of a state bureaucracy with no "boots on the ground" familiarity with or affinity for our communities. Emotions run high in such circumstances and we share those emotions in many respects. At this juncture, however, we believe the steady leadership and commitment of your CDA staff to pursue a negotiated resolution to the outstanding areas of disagreement in Amendments 3 and 7 is the best course of action. If the CCC staff is not willing to further engage on Amendments 3 and 7 and the LCP update process collapses, then it will not be for want of all possible effort on the part of Marin County to comprehensively update its LCP in a manner that balances all of the objectives of the Coastal Act.

Thank you very much for this opportunity to submit our comments.

Very truly yours,



Jennifer Blackman
General Manager

cc: Dennis Rodoni, Supervisor, via email: DRodoni@marincounty.org
Brian Crawford, Director of Community Development, via email:
BCrawford@marincounty.org
Jack Leibster, Planning Manager, via email: JLeibster@marincounty.org
Kristen Drumm, Senior Planner, via email: KDrumm@marincounty.org
Rhonda Kutter, Aide to Supervisor Rodoni, via email: RKutter@marincounty.org
Joyce Evans, Secretary to the Board of Supervisors, via email: JEvans@marincounty.org

From: [Drumm, Kristin](#)
To: [Lacko, Leslie](#); [Gurley, Margaret](#)
Subject: Fwd: Marin LCP
Date: Tuesday, April 24, 2018 11:17:48 AM

From: Paul Reffell <pareffell@icloud.com>
Sent: Tuesday, April 24, 2018 11:38:30 AM
To: Drumm, Kristin
Subject: Marin LCP

Dear Board of Supervisors,
I am a resident of Tomales Bay's East Shore and a member of the board of East Shore Planning Group. I strongly support ESPG's position that all California Coastal Commission's 2016 amendments to the LCP be rejected.

Marin County has worked long and hard to create the LCP and to negotiate with the CCC about amendments. It is now apparent that trying the Commission's preferred "all or nothing" approach to approving amendments is counter-productive. Trying to compromise on one amendment in the hope that the CCC will look more kindly on another more controversial one has proven to be the wrong approach. Rejecting all the amendments, then focusing on targeted amendments is the best course going forward, with flexibility in guidelines for dealing with future events, rather than rigid regulations based on current, and perhaps faulty, anticipated conditions.

The years of work by the County are not in vain, as all the issues raised needed attention, and some amendments are ready to be approved. I suggest that those amendments be approved individually while the other amendments are still in process. The CCC has been dismissive of Marin's needs and has taken a stand that does not take into account the necessity of flexibility in the approach to the as-yet-unknown effects of sea-level rise. Residents of the East Shore believe that the CCC's position is to put in place regulations that will destroy communities like Marshall, that residences are impeding public access to (non-existent) "beaches" and that residents who do not directly serve tourism have no place in CCC's grand vision. This is an example of a once-revered public institution run amok, actively working against the interests of the public it is supposed to serve.

Thank you for your attention to this matter. We do appreciate the efforts of the County to find solutions.

Sincerely,
Paul Reffell

From: [Drumm, Kristin](#)
To: [Lacko, Leslie](#); [Gurley, Margaret](#)
Subject: Fwd: Today's hearing on the LCP: Please circulate to the members of the Board of Supervisors
Date: Tuesday, April 24, 2018 1:00:42 PM

From: Kirk Marckwald <kirk@ceaconsulting.com>
Sent: Tuesday, April 24, 2018 2:51:00 PM
To: Drumm, Kristin; MarinLCP; BOS
Subject: Today's hearing on the LCP: Please circulate to the members of the Board of Supervisors

Supervisors:

At the last minute, I realize that I will be unable to attend today's hearing.

I am a part-time resident of the East Shore and I strongly support the position of the East Shore Planning Group. I believe the County will be in a stronger position with the Coastal Commission by rejecting all of the proposed 2016 amendments. Partial approvals do nothing to strengthen the County's hand in my opinion; to the contrary, it will make the Coastal Commission less-likely to move forward in a cooperative manner on all fronts that can be supported by the business, the agricultural and the environmental communities.

Thank you for considering my views as you debate these topics.

Kirk Marckwald
(o) 415-820-4412
(m) 415-215-4213

From: [Drumm, Kristin](#)
To: [Lacko, Leslie](#); [Gurley, Margaret](#)
Subject: Fwd: LCP
Date: Tuesday, April 24, 2018 1:01:06 PM

From: Tom Flynn <tomflynn@sonic.net>
Sent: Tuesday, April 24, 2018 1:21:32 PM
To: Drumm, Kristin
Subject: LCP

Dear Supervisors,

I am a property owner on the East Shore, and I strongly support the position of the East Shore Planning Group, asking that all the Coastal Commission 2016 amendments be rejected.

Thank you,

Tom Flynn
415-924-8250
415-328-8636 mobile