



DEPARTMENT OF

AGRICULTURE, WEIGHTS AND MEASURES

Promoting and protecting agriculture, environmental quality, and ensuring equity in the marketplace.

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January 2, 2013

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

Subject: Local Coastal Program Amendments (LCPA)
Agriculture and Biological Resources

Dear Members of the Board,

Recommendations:

- 1) Adopt Agricultural and Biological Resources policies governing interpretation of the LCP consistent with current Agricultural Policies and definitions, State Laws/local ordinances, and generally recognized regional farming practices
- 2) Utilize Policies for Interpretation of the Land Use Plan (INT)
- 3) Consider Basis in Coastal Act, Structural Clarity, Avoiding Redundancy, Internal Consistency, and Content

Current Agricultural Policies approved by the Planning Commission and adopted in the County Wide Plan define Agricultural Lands and Resources (**C-AG-1**) include viticulture in the definition of agriculture. This policy specifies the protection of agricultural land, continued use, and preventing conversion to non-agricultural uses. Also the emphasis is preserving important soils, water sources and forage to allow continued agricultural production on agricultural lands. This policy is general enough to recognize the broad scope and diversity of the term agriculture. Agriculture is an art and a science and includes a wide array of recognized forms of production of food, fiber and other valuable production systems.

I do not support the proposal to striking viticulture from the definition of agriculture and requiring a permit to farm this crop in zoned agricultural. It is conflicting with the Definition of Agriculture in both County General Plan and the California Food and Agricultural Code and is inconsistent with the general intent of **C-AG-2** Coastal Agricultural Production Zone (C-APZ). This policy is intended to preserve privately owned lands that are suitable for land-intensive or land-extensive productivity and to ensure the principle use of the land is agricultural. The definition should be inclusive of all production and accepted to include viticulture. To put parameters around defining the term "Agriculture", I have attached sections of the California Food and Agricultural Code (FAC) for clarification (Attachment A).

The proposal in the LCPA removes viticulture (**C-AG-2**) as a recognized agricultural practice – striking it from the existing, long standing, and accurate definition of Agriculture. This is inconsistent with our County wide plan and State Food and

Agricultural Code and is counter to the “Policy for Interpretation of the Land Use Plan (INT)” **(C-INT-1)**. The land is not being converted to a non-agricultural use if planted to a vine crop. Certainly it likely would be a change of production activity and require the land to be managed differently than the existing pastoral range. The land if planted to vines would retain the land intensive and extensive use currently recognized for animal agriculture and ensures the principle use remains agricultural in nature. It is promoting the generally accepted practice of viticulture one of the most prized and oldest farmed crops in the history of agriculture.

The emphasis on making Viticulture a “permitted” activity in the **Coastal Agricultural Production Zone (C-APZ)** is without context to the scale of the matter. What is the purpose of the permit for planting a vineyard and what are the conditions that will be regulated? Currently there are 186 acres of grape vines planted in Marin County compared to the 150,000 acres zoned as agriculture. The grapes represent less than 0.13% of the available land zoned for agricultural use. Regulating vineyards, a minor cropping system presents a bias against vineyards. During a time of crop experimentation and production diversification restricting vineyard planting could have consequences and impose on an agricultural endeavor. Farmers need the flexibility to try different crops and find niches to remain competitive.

The issue of permitting a defined agricultural practice under a “Basis in Coastal Act” provision using a County policy begs the question – what is the context for evaluating the “no feasible less environmentally damaging alternative” when planting a vineyard. Planting a vineyard requires certain actions such as plowing and disking. Elevating a vineyard planting into the category of needing special protection as an ESHA, wetlands, and stream seems out of context. How will the Coastal Commission enforce the policy and is it feasible?

“Coastal Act Section 30108 Feasible” means capable of being accomplished in a successful manner within reasonable period of time, taking into account economic, environmental, social, and technological factors. It should also be “feasible” and should apply the test of “feasibility” in different context. The context considered in this situation is determined by the extent of activity and “adverse environmental impacts” that result from planting a vineyard. It is my opinion, that to date vineyards planted in the county have not posed any significant environmental impacts. My understanding is the Coastal Commission is not staffed with field enforcement officers, ecologist or biologist and has no expertise in this matter. Permitting and enforcement would be the responsibility of local regulators. There exists a phenomenal support system and expertise due to our proximity to a world renowned viticulture region. We also have a rich and robust regulatory environment.

We are surrounded by numerous agencies with enforceable water, air, and land use policies within the Local, State, and Federal levels to offer “Internal Consistency” available to oversee vineyard development. We have Department of Public Works (grading, roads, and infrastructure), Community Development Agency (non-agricultural developments, wells and septic), Agricultural Commissioner (Vineyard Erosion Sediment Control Ordinance, Marin Organic Certified Agriculture, Pesticide Use Enforcement, Farmers Market Certification), County Ordinance (woodlands protection), US Fish and Wildlife (endangered species protection, safe harbor, fishery), CDFW (general wildlife and corridor protection),

Regional Water Board (water quality, storage and use), US DOI-PRNS (limited agriculture use policies). Hence there is “Structural Clarity” and existing oversight by numerous agencies. Permitting a vineyard under Coastal Act policies does not “avoid redundancy” only adds to the growing regulatory burden farmers loath. The point here is the formal protection of the environment and regulatory conditions associated with planting a vineyard are robust. It is unnecessary to further permit what is recognized as a currently highly regulated agriculture activity.

There also is the issue of “consistency and economic fairness” in regulating different areas of the State and county in terms of permitted activities. Regulating one vineyard and not an adjacent one creates unfair regulatory burden as a result of a prescribed Coastal Zone Boundary. Extending regulations onto one area (Coastal Zone) and not another area (Balance of county) could present an economic hardship as well. The Coastal Zone vineyard permit process would likely result in major delays in acquiring a permit to install and plant a vineyard resulting in lost growing seasons or worst case – a permit denial. This represents the number one theme farmers object to: regulatory burden and increased cost. Regulatory burden and cost of compliance are key issues published in the Marin County Agricultural Summit and the Countywide Plan development.

Because grapes are grown regionally there is an expectation that vineyards can exist and be competitive in the market place. The exceptionally high cost of installing a vineyard (\$40-50,000/acre) presents an economic factor which limits vineyard installation. Other major factors regulating the initiation of a vineyard includes water availability and added wildlife protections which significantly add to this cost. It appears regulating viticulture is considered simply because there is noting other to permit in that region but farming practices. Farming grapes is guided by best management practices is currently regulated, defined in the Food and Agricultural Code and claiming a change of use because the soil is tilled and diversity is added to the landscape is reason for requiring a permit does not add up. Permitting this activity is the first step toward deleting the activity; creating a polarity between and within the farming community and non-farming community, highlighting an issue when one does not exist. The permitting of a vineyard is unnecessary and striking it from a definition is improper. Existing economic factors and layered regulations control this activity. An existing definition retaining viticulture as an agricultural activity strengthens the ability to regulate the activity. Local Coastal Plans to regulate vineyards only minimizes the effort. If there was no definition of agriculture, Marin vineyards were noted for their environmental impacts, there were no enforcement agencies or regulations, no general public oversight; then I could see the need for the Coastal Commission to consider permitting vineyards but that is not the case.

Sincerely,

Stacy Carlsen
Agricultural Commissioner
County of Marin

Attachment

Attachment A

FOOD AND AGRICULTURAL CODE (Applicable Sections)

1. This act shall be known as the "Food and Agricultural Code."

3. It is hereby declared, as a matter of legislative determination, that the provisions of this code are enacted in the exercise of the power of this state for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare.

22. Inasmuch as the planned production of trees is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, the production of trees shall be considered a branch of the agricultural industry of the state for the purposes of any law which provides for the benefit or protection of the agricultural industry of the state.

23. (a) Inasmuch as the planned production of trees, vines, rose bushes, ornamental plants, floricultural crops, and other horticultural crops is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, plants and floricultural crops that are being produced by nurseries, whether in open fields or in greenhouses, shall be considered to be "growing agricultural crops" for the purpose of any laws that pertain to the agricultural industry of the state, and those laws shall apply equally to greenhouses and open field nursery operations.

(b) For the reasons stated in subdivision (a), a nursery where the primary activity is the planned production of horticultural crops, is a farm. However, for the purposes of this section and any laws that pertain to farms in this state, a retail nursery is not a farm.

23.5. The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section 15101 of the Fish and Game Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.

23.6. The Legislature hereby finds and declares that greenhouse production of floricultural, ornamental, or other nursery and agricultural products in the state is a growing industry that provides valuable agricultural products and year-round employment for agricultural workers. The Legislature further declares that greenhouse production is an efficient self-contained production system that offers protections for the environment and allows for the use of conservation-oriented production technologies, including drip irrigation, water recycling, and hydroponics, and the use of energy conservation systems.

23.7. The Legislature hereby finds and declares that vermiculture in the state is a growing industry and that use of vermiculture and vermiculture by-products for the commercial purpose of producing agricultural commodities should be encouraged. As used in this section, "vermiculture" is the raising of animals belonging to the order Oligochaeta, class Chaetopoda, phylum Annelida.

Vermiculture, and the processing, packaging, sale, and use of its by-products, shall be considered a branch of the agricultural industry.

24. It is hereby declared, as a matter of legislative determination, that the provisions of this section are enacted in the exercise of the power of this state for the purpose of protecting and furthering the public health and welfare. It is further declared that the floriculture and nursery industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of floriculture and nursery products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions by tax revenues and other means, and employment and a means of livelihood for many thousands of its population, but also furnishes substantial employment to related industries that are vital to the public health and welfare.

(b) Basic research and development for floriculture and the nursery industries contribute substantially to food production in this state which is essential to the welfare and health of its citizens.

It is also declared that the elimination of disorderly marketing of California floricultural and nursery products, and the development of new and larger markets through education, promotion and other means for these products, are affected with the public interest.

(c) All production of floriculture and nursery products in greenhouses shall be deemed equivalent to the production of floricultural products in open fields.

24.5. Inasmuch as plants growing in native stands or planted for ornamental purposes contribute to the environmental and public health and welfare needs of the people of the state, the Legislature hereby finds and declares that such plants shall be considered as a part of the agricultural industry for the purpose of any law that provides for the protection of the agricultural industry from pests.

25. Unless the context otherwise requires, the definitions in the following sections govern the construction of this code.

25.5 "Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, harvesting, processing, distribution, and marketing of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.