

**Staff Report Supplement #1
Local Coastal Program Amendments (LCPA)**

Additional Changes for Board Consideration

Agricultural Intergenerational Homes: Policy C-AG-5 and Development Code Section 22.32.024 specify that Agricultural Intergenerational Homes may not be subdivided or sold separately from the primary agricultural lot. In response to comments from EAC, staff suggests the following additional revision to Development Code provisions describing the required Restrictive Covenant for intergenerational housing to further clarify this requirement (highlighted in yellow).

22.32.024 – Agricultural Intergenerational Homes (coastal)

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F. Restrictive Covenant. Intergenerational housing requires the preparation and dedication of a restrictive covenant running with the land for the benefit of the County ensuring that intergenerational housing will continuously be occupied by the owner or operator's immediate family. The covenant must include, at a minimum, the following:

1. A detailed description of the intergenerational home or homes.
2. Assurance that any change in use will be in conformance with applicable zoning, building and other ordinances and noting that all appropriate permits must be issued and completed prior to any change in use.

3. Assurance that the intergenerational housing will not be subdivided or sold separately from the primary agricultural legal lot

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Structures on Agricultural Land and Clustering: The Marin County Farm Bureau and other commenters have expressed confusion over proposed new text in Policy C-AG-7 which addresses the siting of agricultural facilities on agricultural land. In response, staff suggests the following additional revision (highlighted in yellow).

C-AG-7 Development Standards for the Agricultural Production Zone (C-APZ) Lands

Proposed development in the C-APZ zone shall be designed and constructed to preserve agricultural lands and to be consistent with all applicable standards and requirements of the LCP , and in particular the policies of the Natural Systems and Agriculture Element of the LUP

A. Standards for Agricultural Uses in the C-APZ:

All of the following development standards apply:

1. Permitted development shall protect and maintain continued agricultural use and contribute to agricultural viability. Development of agricultural facilities shall be sited to avoid agricultural land (i.e., prime agricultural land or other land suitable for agriculture) whenever possible, consistent with the operational needs of agricultural production. If use of agricultural land is necessary, prime agricultural land shall not be converted if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be converted.

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Public Access in ESHA: Marin Audubon Society and Community Marin have requested that Policy C-BIO-2 be modified to address the location of public access relative to ESHAs and ESHA Buffers. Staff concurs that it is preferable to locate public access paths away from ESHA when possible, and suggests the following additional revision (highlighted in yellow).

~~**C-BIO-2 ESHA Protection Development Proposal Requirements in ESHAs.** Allow development in or adjacent to an ESHA only when the type of development proposed is specifically allowed in the applicable Biological Resources Policies of the LCP. Consistent with Coastal Act Sections 30233 and 30236, development in wetlands, estuaries, streams and riparian habitats, lakes and portions of open coastal waters are limited as provided in C-BIO-14 through C-BIO-26.~~

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2. Control public access to ESHAs, including the timing, intensity, and location of such access, to minimize disturbance to wildlife. **Where feasible, locate public access outside of ESHAs and ESHA buffers.** (relocated text from PC-Approved C-BIO-1.2)

Fencing: The Marin County Farm Bureau and various individuals have expressed concern that wording in Policy C-BIO-2 would prohibit agricultural fencing. Recognizing that such fencing is often used to protect ESHA and contain livestock, staff offers the following additional revision to clarify the objective of the policy (which is not to prohibit fencing, but rather to ensure that it doesn't significantly impact wildlife movement and access to water), highlighted in yellow:

~~**C-BIO-2 ESHA Protection Development Proposal Requirements in ESHAs.** Allow development in or adjacent to an ESHA only when the type of development proposed is specifically allowed in the applicable Biological Resources Policies of the LCP. Consistent with Coastal Act Sections 30233 and 30236, development in wetlands, estuaries, streams and riparian habitats, lakes and portions of open coastal waters are limited as provided in C-BIO-14 through C-BIO-26.~~

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3. Avoid fence **types**, roads, and structures that significantly inhibit wildlife movement, especially access to water. (relocated text from PC-Approved C-BIO-1.2)

Site Assessments: Marin Audubon Society and Community Marin have commented that policies should reflect the provisions of Development Code Section 22.64.050.A, which state that the County will hire a biologist for site assessments. Staff suggests the following additional clarification (highlighted in yellow):

~~**C-BIO-2 ESHA Protection Development Proposal Requirements in ESHAs.** Allow development in or adjacent to an ESHA only when the type of development proposed is specifically allowed in the applicable Biological Resources Policies of the LCP. Consistent with~~

Coastal Act Sections 30233 and 30236, development in wetlands, estuaries, streams and riparian habitats, lakes and portions of open coastal waters are limited as provided in C-BIO-14 through C-BIO-26.

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5. Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. Any development must also be determined to conform to all applicable Biological Resources policies in order to be permitted. This determination shall be based upon a site assessment which shall The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures or precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource necessary to demonstrate compliance with the LCP.

Buffer Adjustments: Marin Audubon Society and Community Marin have commented on wording in C-BIO-20.1 and C-BIO-25.1 regarding buffer adjustments. Specifically, comments object to the term “unnecessary to protect the resource”. Community Marin has noted that a 50’ buffer should be maintained from all ESHA, not just the top of stream bank. Staff concurs that the language of these two policies could be better refined for consistency with the spirit of the policy and overall tone of the Biological Resources chapter and offers the following additional revisions (highlighted in yellow):

C-BIO-20 Wetland Buffer Adjustments and Exceptions. Consider granting adjustments and exceptions to the wetland buffer width standard identified in Policy C-BIO-19 in certain limited circumstances for projects that are ~~implemented~~ undertaken in the least environmentally damaging manner. An adjustment may be granted in any of the following circumstances:

1. The County determines, on the basis of a site assessment, that the applicant has demonstrated that an adjustment to the 100-foot buffer is unnecessary to protect the resource because any will not result in the significant disruption of the habitat values of the resource, is avoided by the project and specific proposed protective measures are incorporated into the project. A The wetland buffer may be adjusted to a distance of not less than 50 feet if such reduction is supported by the findings of a the site assessment, which demonstrates that the adjusted buffer, in combination with incorporated siting and design measures, will prevent impacts which would significantly degrade those areas, and will be compatible with the continuance of those habitat areas. An adjustment to the wetland buffer may be granted only where:

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C-BIO-25 Stream and Riparian Buffer Adjustments and Exceptions. Consider granting adjustments and exceptions to the ~~coastal~~ stream buffer standards in policy C-BIO-24 in certain limited circumstances for projects that are undertaken in the least environmentally damaging manner. An adjustment ~~or exception~~ may be granted in any of the following circumstances:

1. The County determines, on the basis of a site assessment, that the applicant has demonstrated that a 400/50-foot an adjustment to the stream buffer (see Policy C-BIO-24.3) is unnecessary to protect the resource because any will not result in the significant disruption of the habitat value of the resource is avoided by the project and specific proposed protective measures are incorporated into the project. A The stream buffer may be adjusted to a distance of not less than 50 feet from the top of the stream bank edge of the stream/ riparian ESHA, if such a reduction is supported by the findings of a the site assessment, which demonstrates that the adjusted buffer, in combination with incorporated siting and design measures, will prevent impacts which would significantly degrade those areas, and will be compatible with the continuance of those habitat areas. An adjustment to the stream buffer may be granted only where:

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**Staff Report Supplement #2
Local Coastal Program Amendments (LCPA)**

C-APZ-60 Zoning District: Residential Development Potential

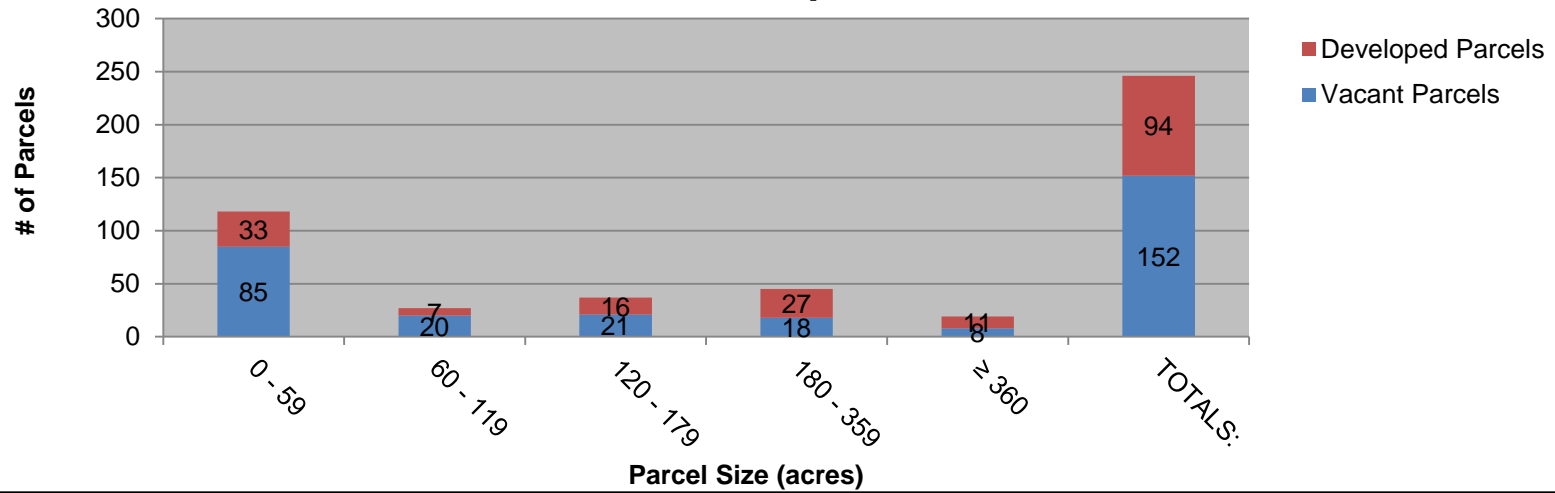
Total C-APZ-60 parcels	MALT parcels (assume no further development) <small>*All but two also under W.A. contract</small>	Will. Act contract parcels	Vacant parcels (no dwelling units)	Developed parcels	Parcels with development potential	Existing dwelling units	Potential additional farmhouse units <i>(max 1 per parcel)</i>	Potential additional intergenerational units <i>(max 2 per parcel)</i>	Potential additional units based on zoning density <i>(1 unit per 60 acres)</i>
246	40	129	152	94	158	127	132	74	37

To determine development potential for parcels in the C-APZ-60 zoning district, we first selected the total number of County parcels that are zoned C-APZ-60, then removed those that are protected by a conservation easement through Marin Agricultural Land Trust (MALT), based on the assumption that no further residential development would be allowed on these parcels. Also not included were parcels that have a “split zoning” in which part of the parcel is zoned C-APZ-60, but the remaining part is zoned differently. For these “split-zoned” parcels it was assumed that any potential development would occur on the part of the parcel *not* zoned C-APZ-60, and therefore would not be relevant to this analysis.

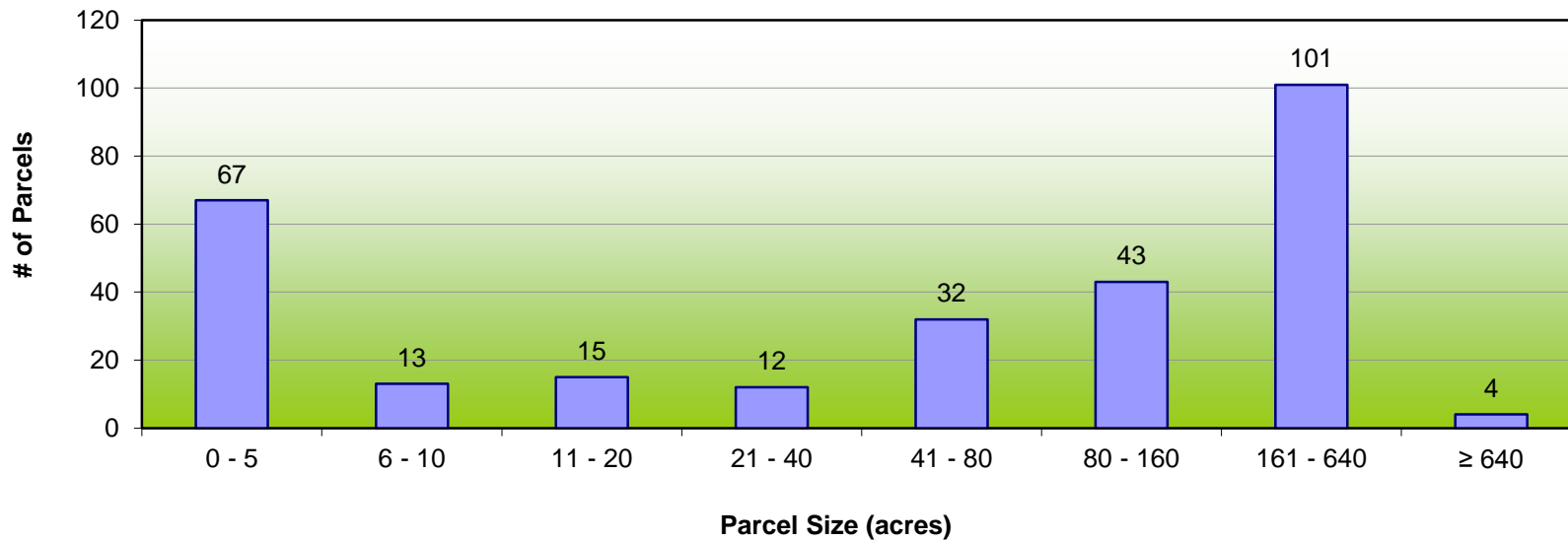
Of the remaining C-APZ-60 zoned parcels, we then determined how many parcels had development potential based on the individual parcel acreage and the number of existing dwelling units (if any), in accordance with proposed LCPA provisions. If a parcel is vacant (no dwelling units) and the total acreage is less than 120 acres, it was assumed that the parcel has the potential for one new dwelling unit. Beyond that, if a parcel already has one or two dwelling units but has sufficient acreage (i.e. 60 acres per dwelling unit) for additional dwellings up to a maximum of three units per parcel, then that additional potential was calculated.

This potential was further restricted by the assumption that any parcel under Williamson Act contract would only be allowed a maximum of two units per parcel (where parcel acreage is at least 120 acres), even if there was sufficient acreage for a third unit. The figures in the table above reflect this assumption. Generally the Williamson Act limits residential development on parcels under contract to *one dwelling unit per contract*. However, a County may allow a second dwelling unit where the need is justified by the scale of their agricultural operation (*N.Gremmels, pers. com.*). Thus an intergenerational unit could be approved if it meets the requirements of BOTH the Williamson Act and the LCP. In reality, this number should be far lower, since many Williamson Act contracts apply to individual ranches that are each comprised of multiple parcels. If it is assumed that a maximum of one or two dwelling units *per contract* were allowed (rather than *per parcel* as done here), then the number of potential new dwelling units would be substantially lower than what is shown above.

C-APZ-60 Parcels: Developed vs. Vacant



Distribution of C-APZ Parcels by Acreage



**Staff Report Supplement #3
Local Coastal Program Amendments (LCPA)**

ERRATA

Attachment 1 – Executive Summary of Key Issues

II. Diversified Agricultural Uses (p.9)

NO ALTERNATIVES RECOMMENDED FOR BOARD CONSIDERATION

Staff proposes minor modifications to LCPA Policy C-AG-2 and Development Code Sections 22.32.023,,22.62.060, and 22.130.030 for clarification; however no other alternative to the PC-approved LCPA provision is presented. See **Part B Attachment 2** for additional analysis and proposed edits. As described in the Board Letter, these changes will be incorporated if no Board Member objects.

V. Types of ESHA and ESHA Definition (p.6)

ALTERNATIVE FOR BOARD CONSIDERATION:

C-BIO-1 Environmentally Sensitive Habitat Areas (ESHAS) (excerpt)

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2. For the purposes of this Chapter, ESHA is addressed in three general categories: wetlands, streams and riparian **areas vegetation**, and terrestrial ESHAs...

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VII. ESHA Buffers (p.11)

ALTERNATIVE FOR BOARD CONSIDERATION:

C-BIO-3 ESHA Buffers. (proposed)

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2. Provide buffers for wetlands, streams and riparian **areas vegetation** in accordance with C-BIO-19 and C-BIO-24, respectively...

X. Buffer Adjustments (p.14)

ALTERNATIVE FOR BOARD CONSIDERATION:

- LCPA Policy C-BIO-20 and C-BIO-25: Establish an absolute minimum buffer of 50' for wetlands, streams and riparian areas.
 - **LCPA Policy C-BIO-20 and C-BIO-25: Modify buffer adjustment standards to also account for takings impacts.**
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XI. Interpretation Policies (p.18)

ALTERNATIVE FOR BOARD CONSIDERATION...

Section 22.70.180 Potential Takings Economic Evaluation...

A. Filing...

12. Any additional information that the City County requires to make the determinations.

...

C. Supplemental Findings for Approval of Coastal Development Permit. A Coastal Permit that allows a deviation from a policy or standard of the LCP to provide a reasonable economic use of the parcel as a whole may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or City Council Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 22.70.070 (Required Findings):

1. Based on the economic information provided by the applicant, as well as any other relevant evidence, no use allowed by the LCP policies, standards or provisions would not provide an economically viable use of the applicant's property.

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Attachment 2 – Detailed Analysis of Key Issues

II. Diversified Agricultural Uses (p.9)

ALTERNATIVE FOR BOARD CONSIDERATION:

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

~~For the purposes of~~ In the C-APZ zone, the principal permitted use shall be agriculture, defined as follows:

- uses of land for the breeding, raising, pasturing, and grazing of livestock;
- the production of food and fiber;
- the breeding and raising of bees, fish, poultry, and other fowl;
- the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture, and forestry crops, and plant nurseries;
- substantially similar uses of an equivalent nature and intensity; and
- accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including one farmhouse per legal lot, one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities.

Section 22.62.060 – Coastal Agricultural and Resource-Related Districts

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B. Purposes of zoning districts. The purposes of the individual zoning districts are as follows.

1. C-APZ (Coastal, Agricultural Production Zone) District. The C-APZ zoning district is intended to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural production. (Policy C-AG-2)

The principal permitted use of lands in the C-APZ district is ~~intended to be~~ agricultural, including activities that are accessory and incidental to, in support of, and compatible with agricultural production. These activities include use of land for the breeding, raising, pasturing, and grazing of livestock; the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, **viticulture**, vermiculture, forestry crops, and plant nurseries; substantially similar uses of an equivalent nature and intensity; accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including one farmhouse per legal lot, ~~an~~ one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities. (Policy C-AG-2)

III. Intergenerational Housing (p. 14)

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Environmental Organizations: Representatives of various environmental groups have echoed the concerns identified by the Coastal Commission. Specifically, they support the suggestion that intergenerational housing should not be considered to be a Principal Permitted agricultural use and should not be exempt from APSP requirements. There is also concern that the policy text is confusing, and could imply that additional density (beyond one unit per 60 acres) would be granted for intergenerational housing. ~~Lastly, it has been requested that minor revisions be incorporated into the LCPA to clarify that intergenerational housing is required to be clustered.~~

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Attachment 4 – Detailed Analysis of Other Issues

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D. CCC ISSUE: In reviewing an earlier draft of the LCPA, the CCC had raised concerns about use of Master Plans in the C-APZ zone, concluding that “provisions for Master and Stewardship plans could be better integrated into the coastal permit process, ... All Master Plan and Stewardship Plan standards and conditions need to be incorporated into the coastal permit approval...” Staff subsequently revised the relevant sections accordingly, and included that language in the LCPA approved by the Planning Commission.

~~[*Note: see attached memo regarding clarification and response to CCC staff questions to be addressed in meetings prior to final staff report- see attached.]~~

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Attachment 5 – Recommended Changes and Corrections to the LCPA

Add to p.9

Development Code Chapter 22.68 Coastal Permit Requirements

Revision proposed for consistent language (riparian vegetation).

22.68.050 – Exempt Projects

The following projects, as determined by the Director, shall be exempt from the requirements of Section 22.68.030 – Coastal Permit Required, unless listed as non-exempt by Section 22.68.060.

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I. Temporary event. A temporary event which:

1. Would have a duration of two consecutive days or less; and
2. Would not occupy a sandy beach in Muir Beach, Stinson Beach, Bolinas, or Dillon Beach; and
3. Would not involve a charge for general public admission or seating where no fee is currently charged for use of the same area; and
4. Would not take place in any wetlands, streams and riparian **corridors vegetation**, other ESHAs, or their buffers.

Attachment 6 – Compilation of Revisions

Section 22.32.023 – Agricultural Homestays (Coastal)

(see discussion, Attachment 2, Section II. Diversified Agricultural Uses)

(Coastal) Agricultural Homestays are subject to the requirements of this Section. The intent of these provisions is to ensure that the Homestay is accessory and incidental to, in support of, and compatible with the property's agricultural production.

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B. Land Use Requirements. An Agricultural Homestay:

1. Shall have no more than five guest rooms and host no more than 15 registered guests,
2. Provides overnight transient accommodations,
3. Shall offer meals only to overnight guests as an incidental, and not as the primary, functions of the establishment, **and**
4. Is located on, and is part of, a farm as defined in Section 52262 of the Food and Agriculture Code, that produces agricultural products as its primary source of income,
5. **Shall operate within the same structure as an otherwise permitted farmhouse or intergenerational home on the property,**
6. **Shall be limited to one per legal lot, and**
7. **Shall not be allowed if there is already a bed and breakfast operation on the property.**

Section 22.32.024 – Agricultural Intergenerational Homes (Coastal)

(see discussion, Attachment 2, Section III. Intergenerational Housing)

(Coastal) Intergenerational Housing in the Coastal Zone is subject to the requirements of this Section. The intent of these provisions is to allow intergenerational housing units in order to support agricultural operations, ensure the viability of agriculture in the Coastal Zone and facilitate multi-generational family farm operation and succession. Intergenerational housing is considered a component of the agricultural activities of the property.

A. Permitted use, zoning districts. Up to two intergenerational homes in addition to the Farmhouse may be permitted in the C-APZ for members of the farm operator’s or owner’s immediate family. An equivalent density of 60 acres per unit shall be required for each home, including any existing homes (i.e., a minimum of 120 acres for a Farmhouse plus one intergenerational unit and a minimum of 180 acres for a Farmhouse plus two intergenerational homes).

...

Section 22.62.060 – Coastal Agricultural and Resource-Related Districts

(see discussion, Attachment 2, Section II. Diversified Agricultural Uses)

...

B. Purposes of zoning districts. The purposes of the individual zoning districts are as follows.

1. C-APZ (Coastal, Agricultural Production Zone) District. The C-APZ zoning district is intended to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural production. (Policy C-AG-2)

The principal permitted use of lands in the C-APZ district is intended to be agricultural, including activities that are accessory and incidental to, in support of, and compatible with agricultural production. These activities include use of land for the breeding, raising, pasturing, and grazing of livestock; the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, vermiculture, forestry crops, and plant nurseries; substantially similar uses of an equivalent nature and intensity; accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including one farmhouse per legal lot, an one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities. (Policy C-AG-2)

...

Section 22.130.30 – Definitions

(see discussion, Attachment 2, Section II. Diversified Agricultural Uses)

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