

Marin Conservation League | Land Use & Transportation Committee Meeting
Wednesday, October 7, 2015 – 9:00 am
175 N. Redwood Dr., San Rafael

Agenda

Announcements:

Approval of minutes: September 2, 2015

Approval of Agenda

Guest speaker: **Dan Carney**, MMWD Water Conservation Manager, “Pros and Cons of Artificial Turf”

Action Items:

- a. Draft letter on Coastal Commission LCP – see attached memo and draft letter
- b. Draft Agriculture Policy - Sally - **draft to follow on Tuesday, Oct. 6**
- c. Letter on Delta flows – sign on or not – see attachment

County wide planning issues:

- a. Transportation updates - Bob Johnston
- b. Water updates – Ann
- c. Tomales Bay Oyster Farm
- d. IPM update - Nona

Brief Updates:

- a. Conversations with ranchers - Nona
- b. Community Marin - Rick
- c. Novato General Plan Update
- d. Easton Point – Randy
- e. Hamilton Sports Facility
- f. Grady Ranch
- g. BioMarin – Kate
- h. PG&E clean up

Back Burner issues:

- i. Canalways | Highway 101 projects | SMART or NCRA | Hetfield project, Lucas Valley | Golden Gate Baptist Seminary | Marin General Hospital Retrofit | Bon Air Bridge impact on wetland] PRNS ranch planning

Next meeting: November 4, 2015

MARIN CONSERVATION LEAGUE
Land Use, Transportation, Water, Agricultural Land Use: September 2, 2015, 9 to 12
Draft

Present: Susan Stompe chair; Priscilla Bull, Nona Dennis, Don Dickenson, Randy Greenberg, Jana Haehl, Pat Nelson, Kate Powers, Judy Teichman, Ann Thomas, Doug Wilson. Guests: Lori Schifrin.

August 5, 2015 Meeting Notes. OK as submitted.

Announcements. 1) Escrow closed August 28 on the Madera Bay Park property in Corte Madera and a celebration of the acquisition will be held on the site September 27. 2) The North Bay Watershed Assn board meeting on September 11 includes two agenda items of interest: Hamilton Field levee accreditation, and implementing a sustainable groundwater act in Sonoma County. 3) A Healthy Creeks workshop is planned for September 12 at Miller Creek.

Revised Letter/Civic Center Drive Area. This draft letter was circulated with the agenda for this meeting and was reviewed. It was M/S (Nona/Randy) and approved to mail to the BoS.

Pacheco Valley Mowing Letter. Susan had drafted a letter to the editor in support of open space policies regarding the meadow at Pacheco Valle, and it was reviewed by persons present. It was M/S (Ann/Priscilla) and approved to send the proposed letter including revisions suggested at this meeting, which complies with existing MCL open space policies, to the IJ opinion page, and copied to the Board of Supervisors.

Water Issues. 1) MMWD has not made further progress on the Wildfire Protection and Habitat Improvement Plan and EIR (vegetation management) since their July decision to drop consideration of herbicides from the management plan. 2) Both of the county's major water districts are in full compliance with state orders to reduce water usage, exceeding 20% cutbacks. 3) College of Marin is working on a major facilities master planning process and appears open to considering wetland restoration of parking lot 13, and incorporating fish-friendly features along the channel through the campus. Friends of Corte Madera Creek is pursuing these possibilities.

Pt Reyes National Seashore Ranch Management Plans. Judy reported that Melanie Gunn, the director of outreach for the seashore, is meeting with ranchers to help develop alternatives for the environmental assessment that the National Park Service will have to do. Also, MCL's August 28 quarterly agricultural land use meeting in Pt Reyes included excellent presentations.

Judy suggested that planning for 20-year leases is an opportunity to include activities with an environmental benefit. In particular she suggested MCL ask the Park Service to develop a way to support carbon sequestration projects on the ranches, even something on a pilot basis. Others noted that the soil sequestration is only one component in a broad and complex climate balancing system; how best to integrate this into planning probably needs more discussion. Judy will investigate further as the ranch planning process will extend well into 2016.

Local Coastal Plan. Judy and Nona attended the BoS meeting August 25 when the Board approved staff-prepared recommendations on agricultural policies for the coastal zone. Media reports on the meeting did not make entirely clear what was approved, particularly with regard to housing guidelines, so Land Use members need to see the report going to the Coastal Commission. Judy will draft a letter to send to the CC, for review at the October Land Use meeting followed by action at the October MCL board meeting.

Whistlestop Redevelopment. The application for the senior housing and services facility at this site was submitted to the City and is being reviewed by city and county agencies. An EIR will be required so L.U. members itemized a general list of issues (not intended to be complete) that a scoping letter should raise. These include: 1) traffic and parking, including parking for service providers and guests coming to attend or visit the senior residents, and traffic they will generate. 2) Height and bulk, and the zero setback on Third Avenue for a five-story building. 3) Air quality, e.g. from idling cars, exhaust from public transit, proximity of units to 101 traffic, toxins generated by train use. 4) Impact from reduced ease of public accessibility to senior services. 5) Safety, including pedestrian safety, relative to tracks and transit. Include studies on signalization, noting need for ADA signalization in the area. 6) Noise impacts.

Community Marin Action Committee. Kate asked if there could be updates on this group's activities as part of the regular board meeting reports on MCL committees. Rick F is chair and in his absence today Susan briefly reported.

Novato General Plan. The City has prepared its 10th white paper, on the downtown specific plan, but the draft general plan is still expected to take another six months.

Novato Sports Complex. The applicants are expected to ask for a general plan amendment to allow commercial use on the property. In the meantime they are meeting with community members to encourage support for the project.

Grady Ranch. Nothing new. The site is currently zoned for 32 units, but this could be expanded to as many as 240 units depending on the number of units that would be affordable.

Bio Marin/Expansion/San Rafael Corporate Center. MCL sent a letter to the City Council requesting additional review beyond the negative declaration that the San Rafael Planning Commission had recommended. The Commission's approval included comments suggesting the Council further examine several issues, including: 1) pedestrian crossing safety, 2) bicycle parking, 3) how the soil would be managed where the toxics cap is penetrated. It was M/S (Jana/Judy) and approved to send a letter to the Council, revised from what went to the Planning Commission, asking that unresolved issues be addressed, including 1) monthly reports to the public on soil contaminants, 2) visual impacts, 3) how to include restoration of the city's creek, adjacent to the property, 4) sea level rise (not addressed in original EIR).

Agricultural Land Use Committee, meeting, 11:15 to Noon. Present for this segment: Priscilla Bull, Nona Dennis, Kate Powers, Susan Stompe, Judy Teichman, Ann Thomas.

MCL Ag Policy Committee. Sally G is working on this and will do an introductory section.

PRNS Ranch Management Plan. Judy suggested a letter to NPS itemizing some subject areas for analysis, possibly drafted by a group representing MCL's several issue committees. She would like the planning to cover the environmental benefits of carbon farming, for which cap and trade funding might possibly be available at some time. Nona pointed out that there is a large range of activities that will need to be analyzed in preparation for the plan. As the management planning is extending into next year, further discussion of this topic was deferred.

Notes: AT

Draft

MEMORANDUM

September 30, 2015

TO: Land Use Committee
Agricultural Land Use Subcommittee

FROM: Judy Teichman

SUBJECT: Marin LCP Update: Update on Status of Ag Issues

There are innumerable minor changes in the Marin LCP Update approved by the Board of Supervisors on August 25. This memorandum provides background on the following significant provisions relating to agriculture:

1. Intergenerational housing and use of new terms: “agricultural dwelling units” and “farm tract.”
2. Agricultural Accessory Activities and Structures” and the use of “necessary for” in determining what constitutes a “principal permitted use.”
3. Small processing and onsite retail facilities.
4. “Ongoing agricultural activities” v. “development.”
5. Farm tours as principal permitted uses.

For the purpose of this memo, the citations to what County staff calls the Final Implementing Program (IP) for Agriculture Resubmittal Text are called the “New IP”. Citations to the County Staff Recommendations to the Board are referred to as “Staff Recommendations.” “Board” means the Marin County Board of Supervisors. Commission means the California Coastal Commission

1. Agricultural Dwelling Units and Intergenerational Farmhouses:

The original LUP and IP provisions relating to intergenerational housing approved by the Board specified the amount of development permitted per “legal lot.” Coastal Commission modifications specified that all of the conditions on intergenerational farmhouse(s) would apply to “all contiguous properties under the same ownership” regardless of the number of legal lots owned. Commission staff proposals for the IP extended the restrictions to “all parcels owned in either total or partial fee ownership.” County staff pointed out to the Board that:

“... these provisions may have the unintended consequence of creating an incentive to break up working farms and ranches by encouraging the sale of separate legal lots to realize their development potential.” [See Attachment C]

The compromise approved by the Board allows development on the basis of a “farm tract,” defined in the LUP to include all contiguous legal lots under common ownership. It also incorporates the IP language making it clear that:

. . . the sale of legal lots comprising the farm tract is not prohibited, and that any restrictive covenants imposed as a condition of development would only apply to the legal lot within the farm tract on which the development is approved. [See Section 22.32.024 D, Attachment B]

Generally, see New IP Section 22.32.024 – Agricultural Dwelling Units, Attachment B.

Farm Tract: A “farm tract” is defined simply in C-AG-5 A as “[a]ll contiguous lots under common ownership within a C-APZ zoning district.” As such, it is subject to all of the limitations on land used for intergenerational housing in earlier versions, e.g., the cluster requirement, 7,000 sq. ft. total maximum. Using the term “farm tract” eliminates the need to repeat all of the limitations in other provisions referencing intergenerational housing.

Agricultural Dwelling Units: Another new term, “agricultural dwelling units,” is used in the updated Policies, C-AG-2 4. These units include agricultural worker housing and one farmhouse or a combination of one farmhouse and one intergenerational home. See Attachment A for the text as it appears in the IP, Section 22.32.024.

2. Accessory Agricultural Activities and Structures.

According to County staff, over the years there are a variety of elements that have been recognized as:

. . . functionally-related to agricultural production itself, ranging from barns and fences to homes for the farmer or rancher and agricultural workers. Historically, and throughout the LCP Amendment process, such uses and facilities were identified as principally permitted uses that are “accessory to, in support of, and compatible with agricultural production. [See Attachment C]

Modifications to the original Marin LCP Update approved by the Coastal Commission inserted the term “necessary for” into the definitions of “agricultural accessory activities” and “agricultural accessory structures” so the series of tests would read, “accessory to, in support of, compatible with and necessary for agricultural production.” The use of “necessary for” in these definitions muddies the role of activities that may contribute to the financial viability of agriculture in Marin. For example, cheese making on a dairy can be “accessory and incidental to, in support of, [and] compatible with” the operation of the dairy, but it would be a stretch to say that cheese making is “necessary for ‘agricultural production.’”¹

¹ Commission staff may have simply extended the use of the “necessary for” phrase, which was used in Section C-AG-2 definition of “Coastal Agricultural Production Zone” in the original LUP Update. The definition provides that the “principal permitted use shall be agriculture as follows . . . 6. Accessory structures or uses appurtenant and necessary to the operation of

More important, County staff advised the Board:

Although insertion of the term “and necessary for” might appear to be a minor change, it effectively creates uncertainty by implying that such uses or facilities may, in some cases be unnecessary and that individual producers must demonstrate “necessity” on a case-by-case basis. To ensure that policy and development code language on this issue is unambiguous, staff is recommending reverting to the original language approved by your Board [Attachment C]

The Board approved removing the “and necessary phrase” and adding “or necessary for” as an alternative test in these definitions so the phrase reads, for example, “accessory and incidental to, in support of, and compatible with, or necessary for agricultural production.”

3. Retail Sales and Small Processing Facilities:

The East Shore Planning Group was concerned that allowing agricultural operations to sell products from other operations in the farmshed would turn Highway One into a second Napa was resolved by providing that for the purpose of selling agricultural products, the products must be produced either on-site or on other Marin properties owned or leased by the sales facility operator and that the operator must be “directly involved in their production.” What are referred to as “performance standards,” e.g., hours of operation, parking, are unchanged.

To create economies of scale and minimize the number of processing facilities, the LCP would allow small facilities to utilize products from Sonoma and Marin. The most common example discussed was cheese made from a combination of milk from cows and sheep.² or goats.

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 (not including wind energy conversion systems and wind testing facilities).”

² Regarding the discussion of “ongoing agriculture, the Staff report gives MCL credit for aiding in the resolution of differences: “A significant contributing factor to this result has been staff’s participation in the dialogue among a diverse group of Marin County LCPA stakeholders organized by the Marin Conservation League (MCL) Agricultural Land Use Committee. MCL’s work was specifically designed to explore the full range of views on this matter, provide insight into the specific concerns from these different points of view, and search for potential areas of common ground. While there is no claim that any consensus was reached, the language of the Resubmittal has benefitted from the exchange of views among these participants, as well as other input from the public.” A similar reference to the MCL organized meetings appears in connection with the definition of what constitutes development. Staff August 25, 2015 Recommendations to Board, pages 13-14.

4. “Ongoing agricultural activities” v. “development.”

The Board adopted the County staff recommendation that “Ongoing Agriculture (Coastal)” be defined as:

1. All routine agriculture cultivation practices (e.g., plowing, tilling, planting, harvesting, and seeding), which are not expanded into [ESHAs] and ESHA buffers. Oak woodland or areas never before used areas for agriculture, and
2. Conservation practices required by a government agency . . . in order to meet requirements to protect and enhance water quality and soil resources.

The following activities shall not be considered ongoing agriculture for the purpose of the definition of “Development:” and constitute new development requiring a coastal permit . . . unless such development is categorically excluded by a Coastal Commission approved Categorical Exclusion Order.

1. Development of new water sources such as construction of a new or expanded well or surface impoundment.
2. Installation or extension of irrigation systems.
3. Terracing of land for agricultural production.
4. Preparation or planting of land for viticulture . . . [See definition of initial vineyard planting]
5. Preparation or planting of land for growing or cultivating the genus cannabis.
6. Routine agricultural cultivation practices on land with an average agricultural slope of more than 15%. [See Section 22.130.030, Attachment A.]
7. “Average agricultural slope” is defined as “[t]he average percent slope of new or existing agricultural land prior to the commencement of any agricultural planting work.” It is determined using, among other things USGS field data. [See Section 22.130.030, Attachment A.]
8. “Any excavation, stripping, cutting, filling, or stockpiling of soil material or any combination thereof that exceeds 50 cubic yards of material” constitutes “grading.”. [See Section 22.130.030 and postscript.]

IP Section 22.130.030, Attachment A. The 50 cubic yards in subparagraph 8 is a reduction from the 150 cubic yards of material in the original version of the IP Update.

4. No Permit Required for Farm tours by Farm Operator. The revised LUP includes “educational tours” under “Other Agricultural Uses” if the tours are “appurtenant or necessary to the operation of agriculture.” C-AG-2 A.5. The Coastal Commission revision limited farm tours to “non-profit tours. There was a consensus that educating the public about agriculture is important and that a rancher or farmer or ranch or farm operator, who takes the time to give a tour, should be able to charge for a tour.

Post Script: In my haste to get this done, I failed to include a copy of the definition of “Grading (coastal)” in Section 22.130.030, Attachment A:

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof that exceeds 50 cubic yards of material. As used in this Development Code, grading does not include plowing, tilling, harrowing, aerating, disking, planting, seeding, weeding, fertilizing or other similar routine agricultural cultivation practices for ongoing agricultural operations_(see “Agriculture, Ongoing”).

9-30-15 DRAFT FOR REVIEW AT LAND USE ON 9/7/15

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

Subject: Agricultural Provisions in Revised Marin County Updated LCP

Dear Commissioners:

The Marin Conservation League has been protecting and working to enhance Marin County's natural environment, including its open space and agricultural lands, for over eighty years. MCL was a leader in supporting creation of the California Coastal Commission and continues to respect the efforts of the Commission, including Commission staff, in efforts to safeguard agriculture in Marin's coastal zone.

Early this year, MCL facilitated a dialogue in the environmental and agricultural communities in Marin regarding Commission amendments to the Land Use Plan and proposed Commission staff edits relating to Implementation Program (IP) applicable to agriculture in an Update to Marin County's LCP. We particularly appreciated Commission staff's participation in a combination Skype/conference call on January 30 that gave us an opportunity to explore the full range of views on particular issues. These sessions provided insight into the specific concerns of the differing points of view. Although we did not arrive at a consensus on all issues, many areas of common ground were found.

These are areas that were of particular concern that have been addressed in the Revised Marin County LCP Update approved by the Marin County Board of Supervisors on August 25, which MCL supports:

1. **Intergenerational Housing:** Commission staff proposals for the IP would extend the conditions on intergenerational homes to "all contiguous properties under the same ownership" regardless of the number of legal lots owned. This could have the unintended consequence of encouraging the breakup of farms in order to realize their full development potential. The compromise approved by the Board of Supervisors allows development on the basis of a "farm tract," but also incorporates language in the IP making it clear that the sale of legal lots comprising the farm tract is not prohibited, and any restrictive covenants imposed as a condition of development would only apply to the legal lot within the farm tract on which the development is approved. IP Section 22.32.024 D. We urge approval of the County's current proposal.

2. **Accessory Agricultural Structures and Activities:** Commission staff proposed including the term “and necessary for “ in the tests in the definitions of “Accessory Agricultural Activities” and “Accessory Agricultural Structures.” To make “necessary for” in this list of tests an additional, rather than an alternative, requirement would muddle the role of activities that may contribute to the financial viability of agriculture in Marin and create uncertainty by implying that such uses or facilities may, in some cases, be unnecessary and thus require individual producers to demonstrate “necessity” on a case-by-case basis. We support the County’s use of “or necessary for” as an alternative test in the series used to determine what constitutes an accessory agricultural activity or structure.
3. **Retail Sales and Small Processing Facilities:** To create economies of scale and minimize the number of processing facilities MCL supports allowing small production facilities (under 5000 square feet) to utilize products from the farm shed, defined as Sonoma and Marin counties, e.g., making cheese from a combination of milk from cows on one dairy and sheep from another dairy. With regard to small (under 500 square feet) retail sales onsite, the County proposal would limit the products sold to those produced onsite or on other Marin properties owned or leased by the operator and require the operator to be “directly involved in their production.”
4. **“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 strongly supports the resulting provisions, including the definitions of “agriculture ongoing,” “average agricultural slope,” and “grading” in Section 22.130.030 of the IP. the definition of “agriculture ongoing,” “average agricultural slope” and “grading.” They will give 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.
5. **Farm Tours As A Principal Permitted Use.** Perhaps inadvertently the Commission staff recommended edits to the Updated Marin IP would have required farmers and ranchers to obtain a permit if they were to charge for giving farm tours. There was a consensus that educating the public about agriculture is important and that a rancher or farmer or ranch or farm operator, who takes the time to give a tour, should be able to charge for the tour.

We appreciate the opportunity to comment on the Revised Marin LCP Update and urge your approval of it.

Sincerely,

Kate Powers, President

LOGOS

October xx, 2015

Ms. Felicia Marcus, Chair
Members of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Water Agency Letter Regarding Unimpaired Flows

Dear Chair Marcus and Members of the Board:

The broad coalition of undersigned environmental, commercial and recreational fishing, environmental justice and tribal organizations, whose collective mission is to represent the public interest and public trust resources, respectfully request that the State Water Resources Control Board (SWRCB) reject the 23 July 2015 demand by a consortium of nineteen water agencies to abandon the “unimpaired flow” approach to water management in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including the Water Quality Control Plan process.

The California Legislature, in the 2009 Delta Reform Act, directed the SWRCB to use the best available scientific information gathered as part of a public process to develop new flow criteria for the Delta ecosystem to protect public trust resources. The Legislature also directed the California Department of Fish and Wildlife (DFW) to identify quantifiable biological objectives and flow criteria for the species of concern in the Delta.

Following an extensive public proceeding, the SWRCB found that present Delta flows are insufficient to support native species, and issued recommended flow criteria necessary to protect public trust resources in 2010. The flow criteria were based upon a percentage of unimpaired flows and reflected a consensus opinion of fishery agencies, university and independent scientific experts and non-governmental fishery and environmental organizations. The Board made clear that the recommended flow criteria were subject to a subsequent balancing of beneficial uses that would occur during the Water Quality Control Plan process that is currently underway.

In a separate yearlong public proceeding, DFW developed a report detailing the recommendations, rationale and justification for biological objectives and flow criteria to protect aquatic and terrestrial species of concern that depend on the Delta. The report recommended that water flow into and through the Delta should reflect the frequency, duration, timing and rate of change of flows and that inflows should generally be provided from tributaries to the Delta watershed in proportion to their contribution to unimpaired flow in order to assure connection between Delta flows and upstream tributaries.

The water agencies now claim an unimpaired flow approach is infeasible and that the present drought has revealed the fallacy of attempting to mimic unimpaired flow to protect beneficial

uses. They assert that if an unimpaired flow approach had been in place, precious water resources would have been drained from reservoirs before we entered the drought. Nonsense! Drought sequences have occurred in forty-one of the last hundred years. The severity of drought has been exacerbated by water agencies making normal water deliveries in the first years of drought and continuing to deliver excessive quantities of water in subsequent drought years in the hope of future rainfall.

The SWRCB has reduced minimal flow and water quality standards established to protect fisheries thirty-five times during the present drought¹ in order to conserve water for irrigated agriculture. These reductions have brought several pelagic and anadromous fish species to the precipice of extinction. Despite these actions, reservoir and groundwater levels are now at or approaching historic lows, and California is facing a disaster of epic proportions should the drought continue for another year. This has nothing to do with unimpaired flow. It has everything to do with an over-appropriated system and the failure of water agencies to embrace realistic delivery schedules with a margin of safety to protect against inevitable dry years. The water agency demands are little more than an effort to maintain an unsustainable status quo.

The percent-of-unimpaired flow approach is predicated on distributing flows to meet the life-stage requirements of species in a manner that resembles the natural variability of the hydrograph under which native estuarine species evolved and adapted. However, the approach is based on more than unimpaired flow. It incorporates unimpaired flow data, historical impaired flows that supported more desirable ecological conditions, statistical relationships between flow and native species abundance, and ecological functions-based analysis for desirable species and ecosystem attributes. It emphasizes information based on ecological functions, followed by information on statistical relationships between flow and native species abundance. It is, as both the SWRCB and DFW reports conclude, based on the best available science.

Recent modeling demonstrates that a percent-of-unimpaired flow approach is feasible. It is also equitable and the fairest approach to protecting the public trust and other beneficial uses because it asks for a fair-share commitment of flow from all tributary streams. It will reward those who wisely conserve and promote water use efficiency and penalize those who recklessly overspend their water resources.

The present water quality and flow standards for the Delta were initially adopted two decades ago. It has been nine years since they were last reviewed and left unchanged. The present Water Quality Control Plan process is years behind schedule. In the interval, pelagic and anadromous fisheries have continued their decline, and a number of species are now perilously close to extinction. The water contractors insist that the SWRCB abandon the approach it has followed for the last five years and start over, ensuring additional years of delay. Given the grave state of the Delta's ecosystem and statutory requirements of the federal Clean Water Act, additional years of delay, simply because water contractors fear that protecting the Delta will cost them water, is unacceptable.

¹ PPIC Water Policy Center, 2015, *What if California's Drought Continues?* p.13.

We ask the SWRCB to reject the efforts of the water contractors to delay and sabotage the present Water Quality Control Plan process and to move expeditiously in conducting a formal balancing of the Delta's public trust resources and finalizing Delta flow requirements.

Sincerely yours,